

1 A There is no doubt in my mind, he shot Larry.
 2 MS. PARSONS: All right. I don't have
 3 any further questions. Mr. Toney does.
 4 THE WITNESS: Okay.
 5 MR. TONEY: May it please the Court.
 6 CROSS-EXAMINATION
 7 BY MR. TONEY:
 8 Q Ms. Morrow?
 9 A Yes.
 10 Q You took an oath, correct?
 11 A Yes, I did.
 12 Q And you took an oath to tell the truth, right?
 13 A Right.
 14 Q Okay. So that means that you're not going to lie,
 15 right?
 16 A No, I'm not going to lie.
 17 Q Okay. And you've taken an oath to tell the truth
 18 at least two other times in connection with this
 19 case, correct?
 20 A Yes.
 21 Q And each time, you swore not to lie, right?
 22 A Yes.
 23 Q All right. Let's go back to October the 6th of
 24 2003. Why were you in the area of 29th and Olive?
 25 A I was leaving my girlfriend's house, going over

1 you want to call it.
 2 Q Well, you just told me you were going to tell the
 3 truth, ma'am.
 4 A And I told the truth.
 5 Q Okay. So you've sold drugs? Is that a "yes" or a
 6 "no"?
 7 A Yes.
 8 Q All right. So when you said you didn't sell
 9 drugs, you were lying?
 10 A If I purchase drugs from somebody else and take
 11 them back to them, it's still the same thing as
 12 selling them to them.
 13 Q All right. Let's move on. Now, you said that you
 14 would deliver PCP sometimes?
 15 A Yes.
 16 Q Okay. And you would get money for that, right?
 17 A Yes.
 18 Q Okay. So you sold PCP, correct?
 19 A Yes.
 20 Q Okay. And you said sometimes you sell crack, or
 21 you deliver it to them?
 22 A Yes.
 23 Q Okay. And you would sell marijuana?
 24 A Yes.
 25 Q Okay. So you would just sell any type of drugs

1 to a friend of mine's house.
 2 Q Have you sold drugs over in that area?
 3 A Have I sold drugs? No. I've purchased drugs.
 4 Q You've purchased, but you've never sold?
 5 A No.
 6 Q Okay. So when you would buy drugs for somebody
 7 else and give them to somebody else for money, you
 8 didn't consider that selling?
 9 A Maybe.
 10 Q Maybe. So it would be maybe you sell drugs?
 11 A Maybe I sold drugs.
 12 Q Did you get money?
 13 A Yes, I got money.
 14 Q Okay. Sometimes, did you get up to \$150?
 15 A Yes, I sure did.
 16 Q And that was for delivery of drugs to somebody?
 17 A Purchasing them and taking them back to them,
 18 yes.
 19 Q So that would be selling them?
 20 A Right.
 21 Q So you've sold drugs?
 22 A Yes.
 23 Q All right. So when you just told me you didn't
 24 sell drugs, you were lying, right?
 25 A If you call it selling drugs, sir, if that's what

1 that people would give you money for, correct?
 2 A If they request for me to go buy it for them,
 3 yes, I will go get it for them.
 4 Q All right. Do you use drugs yourself?
 5 A I smoke marijuana.
 6 Q Okay. Have you ever smoked crack cocaine?
 7 A No, I haven't.
 8 Q Have you ever smoked PCP?
 9 A No.
 10 Q Okay. Had you smoked marijuana on the day of this
 11 incident?
 12 A No.
 13 Q You had nothing at all?
 14 A Nothing at all.
 15 Q Okay. Now, did you get crack cocaine from Kiki?
 16 A I purchased cocaine from him also.
 17 Q Okay. Did you get crack cocaine from anyone else?
 18 A No, just him and Tre.
 19 Q Okay. Now, were you selling these drugs in the
 20 area of 29th and Olive?
 21 A No. I would go pick them up and take them back
 22 to the people that purchased the drugs.
 23 Q So you would pick them up from 29th and Olive?
 24 A Right.
 25 Q All right. And you say you were standing on the

1 there was blood and various medical things and
 2 some clothing?
 3 A Right.
 4 Q Did you find anything else that you considered of
 5 evidentiary value there?
 6 A No. The only items that were collected was a
 7 coat and two gloves.
 8 Q Did you find any shell casings, or spent bullets,
 9 or anything of that nature?
 10 A No.
 11 Q Did you collect all of that evidence that you just
 12 described, with the exception of the blood, I'm
 13 sure?
 14 A Well, the blood was with the clothing. The
 15 clothing was collected, yes.
 16 Q And was there blood anywhere else, other than the
 17 clothing itself?
 18 A There was a small pool of blood in the parking
 19 lot, yes.
 20 Q All right. After you finished collecting that
 21 evidence, I want to move down 29th towards Wabash.
 22 Can you tell me if you found anything in the area
 23 of 29th and Wabash?
 24 A Yes. In that area, a total of 12 shell casings
 25 were collected.

1 residence, and then the detective goes in, and
 2 then I follow.
 3 Q So are you going in at essentially the same time
 4 as the detective?
 5 A No, not at all.
 6 Q All right. So when he's finished with whatever
 7 he's looking for, then you go in and collect any
 8 evidence?
 9 A If they find anything, yes.
 10 Q All right. Can you tell us what building you were
 11 searching that day?
 12 A There were three similar buildings. There was a
 13 center building, which was 2404 East 29th,
 14 Apartment West.
 15 Q The search warrant was for that particular area?
 16 A Correct.
 17 Q And you went into 2404. Did you say what
 18 apartment number it was?
 19 A West, which was on the first floor.
 20 Q Okay.

THE COURT: I'm sorry?

THE WITNESS: West, first floor.

23 Q (By Mr. Twenter) Did you only search and collect
 24 evidence from the apartment on the first floor to
 25 the west that day?

1 Q And do you recall where you collected those from?
 2 A Well, they were from the porch of 2846, from the
 3 yard, and then also along the curb and the street
 4 there, 29th Street.
 5 Q Okay. On that evening, were those the only crime
 6 scenes that you worked?
 7 A Yes.
 8 Q Were you later called back out to the area of 29th
 9 and Prospect to 29th and Olive on this case?
 10 A The following day.
 11 Q And what was the purpose of your going out on that
 12 day?
 13 A The homicide detectives were serving a search
 14 warrant at 2404 East 29th.
 15 Q And when a search warrant is served, what are your
 16 duties?
 17 A Again, I respond to the scene. After the scene
 18 has been cleared by our tactical teams, I respond
 19 to the scene and collect any related evidence
 20 that the detectives request.
 21 Q So when they go and they do the search warrant,
 22 are you going in with the detectives and the tac
 23 team, or do you wait until after they've already
 24 gone in?
 25 A As the tac team goes in, they clear the

1 A No, also 1-East, which was directly east of the
 2 apartment, same building.
 3 Q And so you also collected evidence from the
 4 apartment on the east side of the building,
 5 correct?
 6 A Yes.
 7 Q And this was the middle of the three similar
 8 buildings?
 9 A Yes.
 10 Q I want to start with Apartment 1 on the first
 11 floor to the west.
 12 A Okay.
 13 Q Can you tell me what you collected from that
 14 apartment?
 15 A There were two ID cards, an apparent crack pipe,
 16 and various ammunition, and some court papers.
 17 Q And do you recall exactly what types of ammunition
 18 were found in there?
 19 A I would have to check my reports. There were
 20 various kinds.
 21 Q Would that help refresh your recollection?
 22 A Yes.
 23 Q All right. Go ahead and check.
 24 A Five Luger 9-millimeter; one 380 auto; one PMC
 25 223 Remington; one live shotgun shell,

1 the cartridge casings.
 2 Q I'm going to show you what's been marked, first,
 3 as State's Exhibit Number 58 and ask you if you
 4 recognize that as one of the weapons that was
 5 submitted to you.
 6 A Yes, I do.
 7 Q And what type of weapon is that?
 8 A It is a 7.62 x 39 millimeter Norinco SKS rifle.
 9 Q All right. And we're going to call that State's
 10 Number 58, because that's what it's been
 11 introduced as.
 12 A Okay.
 13 Q I'm also going to show you what's been marked as
 14 State's Exhibit Number 35 and ask you if you
 15 recognize that weapon.
 16 A Yes, I do.
 17 Q Is that also one of the weapons that was submitted
 18 to you for testing in this case?
 19 A Yes, it is.
 20 Q What type of weapon is that?
 21 A It also is a 7.62 x 39 millimeter Norinco, but
 22 the model is a MAK-90.
 23 Q Okay. And we're going to call that State's 32
 24 just for differentiating between the two, if
 25 that's all right with you.

1 A That bullet can become embedded or, if it hits a
 2 harder surface, that bullet could fragment, break
 3 apart.
 4 Q If it hits at an angle, is it possible it could
 5 ricochet as well?
 6 A Yes.
 7 Q And would you expect any of those things to happen
 8 if it was to come in contact with, let's say, a
 9 concrete parking lot?
 10 A Yes, I would expect that.
 11 Q So you couldn't tell us if it would embed in it,
 12 if it would fragment, or if it would ricochet?
 13 A It could do any of those things, depending on the
 14 surface that it came in contact with.
 15 MR. TWENTER: All right. That's all
 16 the State has of this witness, Your Honor.
 17 CROSS-EXAMINATION
 18 BY MR. TONEY:
 19 Q Good morning, Ms. May.
 20 A Good morning.
 21 Q You indicated that you tested Number 58, which is
 22 the long black -- well, we'll just describe it for
 23 the record. It's the long black gun, Number 58?
 24 A Yes.
 25 Q All right. And do you recall how many times you

1 A Yes.
 2 THE COURT: Thirty-two, you say?
 3 MR. TWENTER: Thirty-five. I
 4 apologize, Your Honor, 35. I have poor
 5 handwriting.
 6 Q (By Mr. Twenter) Now, you test-fired both of
 7 those weapons, you said?
 8 A Yes, I did.
 9 Q And did you then compare the test-fired casings to
 10 the casings that had been submitted to you from
 11 the crime scene technicians?
 12 A Yes, I did.
 13 Q And can you tell us if the casings from the crime
 14 scene matched either of those weapons?
 15 A Yes, they did.
 16 Q And which one did they match?
 17 A It matched the Norinco MAK-90, Exhibit Number 35.
 18 Q Okay. I have a couple of other questions just
 19 generally about weapons when they are fired. When
 20 you shoot a semiautomatic or an automatic, the
 21 casing comes out and the bullet goes out the front
 22 of the gun, obviously?
 23 A Yes.
 24 Q If that bullet hits something solid, what are the
 25 different things that can happen with it?

1 fired it?
 2 A I can check my notes.
 3 Q Please, do.
 4 A I test-fired that particular firearm three times.
 5 Q And you checked to see which way the shells
 6 ejected, is that correct?
 7 A No, I did not.
 8 Q You didn't?
 9 A No.
 10 Q But you did recover the shell casings to check for
 11 tool marks on them, didn't you?
 12 A Yes.
 13 Q All right. Now, let me show you Number 58 and ask
 14 you, if this were fired, which direction would you
 15 expect the casings to eject?
 16 A As I stated earlier, the cartridge casings could
 17 eject in different directions, depending on the
 18 angle of the firearm, the way the firearm is
 19 actually being held. It could eject from the
 20 sides, it could eject from the rear of the
 21 firearm, and it could eject forward of the
 22 firearm.
 23 Q But if it were fired, say, eight or nine times,
 24 would you expect to be able to find the shell
 25 casings somewhere close to where it was fired?

1 A That's a possibility, but as I said earlier it
 2 all depends on what that cartridge case came in
 3 contact with as it was exiting the firearm.
 4 Q All right. Let me see that gun again.
 5 A (Complies.)
 6 Q The way that this gun is made, is the ejection
 7 port to the right or to the left?
 8 A It could be either, because when that bolt
 9 actually comes back there is an open ejection
 10 port. So it has a possibility of going either
 11 way.
 12 Q Let me show you State's Exhibit Number 35 and ask
 13 you, does that have the same mechanism as Exhibit
 14 Number 58?
 15 A And you mean by "mechanism"?
 16 Q The ejection.
 17 A It is slightly different, yes.
 18 Q Would you tell the Court how this one differs from
 19 the other?
 20 A This ejection port has a closed area. So when
 21 the bolt is actually open, this part of it is
 22 actually shielded or covered.
 23 Q Right. And on that one, you would expect it to
 24 eject which way?
 25 A I would expect it to eject to the right, or to

1 the forward, or to the rearward.
 2 Q But not over it like the other one?
 3 A Again, it's a possibility. It all depends on how
 4 the individual was actually holding the firearm,
 5 what position the firearm was in when it was
 6 being fired, and what that cartridge case came in
 7 contact with.
 8 Q Okay. Now, are you right- or left-handed?
 9 A I am right-handed.
 10 Q Would you hold that gun in the way that a person
 11 who is left-handed would hold it?
 12 A (Complies.)
 13 Q Now, if that gun were shot by a left-handed
 14 person, would you expect the cartridges to go in
 15 the same direction?
 16 A I would expect that.
 17 Q Okay. Thank you. The prosecutor asked you about
 18 if a gun is shot -- a high-velocity gun is shot
 19 from a close range, say, into a parking lot -- he
 20 used concrete. You said you would expect it to
 21 either embed, or ricochet, or fragment, is that
 22 correct?
 23 A Those are possibilities, yes.
 24 Q Assume for a moment it's a softer surface than
 25 concrete, like asphalt. Would you expect the same

1 thing?
 2 A Pretty much the same. It could embed in that
 3 asphalt and it could fragment.
 4 Q Would it be more likely to embed in an asphalt
 5 surface than it would be to embed in a concrete
 6 surface?
 7 A Again, it all depends on how close it was to the
 8 actual asphalt or to the concrete, what the angle
 9 of the bullet was when it was discharged; it
 10 depends on how it actually hit that surface.
 11 Q All right. Now, were you brought to examine
 12 bullet fragments or just the shell casings?
 13 A I believe just shell casings.
 14 Q Okay. Do you recall how many shell casings were
 15 brought to you?
 16 A Thirteen.
 17 Q And you determined that all 13 of them came from
 18 Number 35?
 19 A Yes, sir.
 20 Q And none of them came from Number 58?
 21 A That's correct.
 22 MR. TONEY: All right. No other
 23 questions, Your Honor.
 24 MR. TWENTER: The State has nothing
 25 further of this witness, Your Honor.

1 THE COURT: That's all. You may step
 2 down.
 3 (Witness excused.)
 4 MS. PARSONS: Your Honor, the State
 5 rests.

PLAINTIFF RESTS

1 THE COURT: Very well.
 2 Yes, sir?

3 MR. TONEY: I have one witness here at
 4 this time. I didn't anticipate them being
 5 finished at 10:30, so I told everyone to come at
 6 1:30. I've had people trying to call to get
 7 these people here, but right now I'm looking at
 8 being able to put on one witness now and coming
 9 back at 1:30, because that's the time I told
 10 everybody else to show up, and I'm really having
 11 trouble trying to reach them right now. That's
 12 the position that I'm in.

13 THE COURT: Do you have a motion at
 14 this time?

15 MR. TONEY: Yes, but I wanted to do
 16 that first.

17 THE COURT: I understand.

18 MR. TONEY: Okay. Your Honor, at this
 19 time, the State rests and the defense would make

1 MR. TONEY: We did. We left messages;
2 we left phone numbers, business cards, the whole
3 bit.

4 THE COURT: Right up here to this
5 witness enclosure, please, and remain standing a
6 moment.

7 THE WITNESS: (Complies.)

8 MARVA GRAY,
9 having first been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. TONEY:

12 Q Would you state your name for the record, please.

13 A Marva Gray.

14 THE COURT: I'm sorry, I didn't
15 understand you.

16 THE WITNESS: Marva Gray.

17 THE COURT: Marva Gray?

18 THE WITNESS: (Nods head
19 affirmatively.)

20 Q (By Mr. Toney) Ms. Gray, would you spell your
21 first name and your last name for the record?

22 A M-A-R-V-A, G-R-A-Y.

23 Q And, Ms. Gray, where are you employed?

24 A Fish Town.

25 Q And that's the Fish Town Restaurant at 2831

1 Q Would that be down 29th Street?

2 A And Wabash.

3 Q Toward Wabash?

4 A (Nods head affirmatively.)

5 Q Is that a "yes"?

6 A Uh-huh.

7 Q Okay. I need you to say "yes" or "no," because
8 the court reporter is trying to make a record, and
9 if you say "uh-huh" or "uh-uh," they can't get
10 that. All right?

11 A Okay.

12 Q Now, I want to show you what's been marked as
13 State's Exhibit Number 6 and ask you if you can --
14 if you recognize that area.

15 A Yes.

16 Q And what is that?

17 A The Fish Town building.

18 Q That's where you work at, correct?

19 A Yeah.

20 Q Now, you say you were working as the cashier that
21 evening?

22 A (Nods head affirmatively.)

23 Q Is that a "yes"?

24 A Yes.

25 Q And the cash register, would that be facing to the

1 Prospect?

2 A Yeah.

3 Q And were you employed there on October the 6th of
4 2003?

5 A Yeah.

6 Q And were you working there on that night around
7 9:00 p.m.?

8 A Yes.

9 Q And what is your position at that establishment?

10 A Cashier and cook.

11 Q Okay. And on that night, were you working as a
12 cashier?

13 A Yeah.

14 Q Did you hear any noises that were unusual that
15 night?

16 A Yeah.

17 Q Did you hear what you thought were gunshots?

18 A Yes.

19 Q Would you tell the Court when you first heard the
20 gunshots?

21 A When I first heard them, I started to go to the
22 door but then I went back inside.

23 Q Okay. And where did those gunshots appear to be
24 coming from?

25 A Down the street from Fish Town.

1 north, toward 27th Street?

2 A Yes.

3 Q And there's a window right there, correct?

4 A Yes.

5 Q And then there are two windows that face to the
6 west, toward Prospect, correct?

7 A Yes.

8 Q Now, when you're standing at the cash register,
9 can you see out of the windows that face toward
10 Prospect?

11 A No.

12 Q But you can see out of the windows that face
13 toward 27th Street, correct?

14 A Yes.

15 Q Now, at any time that evening, did you hear
16 gunshots in your parking lot?

17 A It wasn't in the parking lot.

18 Q Okay. And from the cashier's -- well, where
19 you're standing to out in the parking lot, that's
20 about 25 feet, correct?

21 A Yes.

22 Q Okay. And if someone would have been standing in
23 that parking lot shooting, you would have heard
24 it, correct?

25 A Yes.

1 Q But you did not hear that, is that correct?
 2 A Yes.
 3 Q Okay. That night, did you discover that a person
 4 had been shot and was laying in the parking lot?
 5 A Yes.
 6 Q Okay. Tell the Court how you came to know that
 7 that person had been shot and was laying in the
 8 parking lot.
 9 A I went to tell this lady her food was ready and
 10 the lady had already came in, and then when the
 11 lady came in -- I went back around the counter
 12 and then when the lady came and got her food, she
 13 got ready to walk out and she grabbed her chest
 14 and was like, "There's a man in the parking lot."
 15 Q Okay. So he wasn't there before she came in?
 16 A Uh-uh.
 17 Q And not there when you went out to get her?
 18 A No.
 19 Q And about how much time was that, a couple of
 20 seconds, a couple of minutes?
 21 A A couple of minutes.
 22 Q Okay. And then when you went back out, that's
 23 when he was laying out there?
 24 A Yeah.
 25 Q Okay. And in that period of time, you hadn't

1 A Yes.
 2 Q And you are sure beyond any doubt that there was
 3 no gunshots fired in that parking lot that
 4 evening, is that correct?
 5 A Yes.
 6 MR. TONEY: I don't have any other
 7 questions, Your Honor.
 8 THE COURT: You may examine.
 9 MS. PARSONS: Thank you.
 10 CROSS-EXAMINATION
 11 BY MS. PARSONS:
 12 Q Ms. Gray, you were working at the Fish Town and
 13 you said you were the cashier and also the cook,
 14 is that correct?
 15 A Yes.
 16 Q And so as a part of your duties, you take orders
 17 from customers that walk in the store, right?
 18 A Yes.
 19 Q And customers that go through the drive-through?
 20 A We don't have a drive-through.
 21 Q Okay. And so you're taking orders and then you're
 22 also maybe sometimes at the same time cooking the
 23 food?
 24 A Yes.
 25 Q Doing a couple of things at once?

1 heard any gunshots in your parking lot, right?
 2 A No.
 3 Q Okay. Now, I want to show you what's been marked
 4 as State's Exhibit Number 8 and ask you if you
 5 recognize that.
 6 A (Nods head affirmatively.)
 7 Q Is that a "yes"?
 8 A Yes.
 9 Q Okay. And I know this is traumatic and painful,
 10 but is that the location where the body was when
 11 you went out there?
 12 A Yes.
 13 Q Okay. And that body is like right outside of the
 14 door of the Fish Town, correct?
 15 A Yes.
 16 Q I don't want to just keep going over this -- well,
 17 here, I'll remove that picture because I know you
 18 don't want to look at it.
 19 That was a traumatic evening for you,
 20 wasn't it?
 21 A I had just lost my son, that's why.
 22 Q Okay. And then you go out and there is a dead
 23 body right in front of the place where you're
 24 working at. So you would remember that night,
 25 correct?

1 A Yes.
 2 Q And so on this night, there was nothing unusual;
 3 you were taking orders and you were cooking the
 4 food?
 5 A Yes.
 6 Q And then you had heard gunshots, right?
 7 A Yes.
 8 Q And you actually heard two sets of gunshots?
 9 A Yes.
 10 Q The first set, you told Mr. Toney and you also
 11 told the police that you heard it towards the west
 12 down 29th, is that true?
 13 A Yes, yes.
 14 Q And then you had said earlier that there was a
 15 delay of about eight minutes and then there was a
 16 second set?
 17 A Yes.
 18 MR. TONEY: I'm going to object, Your
 19 Honor. She didn't say anything like that. I
 20 object.
 21 MS. PARSONS: It's cross-examination.
 22 THE COURT: It's overruled.
 23 Q (By Ms. Parsons) So about eight minutes elapsed
 24 and then you hear the second set?
 25 A Yes.

1 Q You hear the first set, and there are people in
 2 the store -- or a person in the store?
 3 A They was in their car.
 4 Q In their car. And you're working, is that true?
 5 A Yes.
 6 Q So you hear the shots and there are things going
 7 on; you're working, right?
 8 A Yes.
 9 Q Then the second set of shots, correct?
 10 A Yes.
 11 Q And then that's when you saw the lady who had her
 12 hand to her chest?
 13 A Yes.
 14 THE COURT: Had what? I'm sorry.
 15 MS. PARSONS: Her hand on her chest.
 16 THE COURT: All right.
 17 Q (By Ms. Parsons) I guess she was gasping, like
 18 she was shocked?
 19 A Yes.
 20 Q And then you went to her, correct?
 21 A Yes.
 22 Q You wanted to find out what was going on with her?
 23 A Yes.
 24 Q All of this is kind of happening at once, correct?
 25 A Yes.

1 Q She's okay, right, the woman?
 2 A Yes.
 3 Q And then that's when you look outside and you see
 4 the body?
 5 A Yes.
 6 Q The other customer that you had been waiting on,
 7 did he or she drive through the parking lot?
 8 A No. They were sitting there waiting on their
 9 order.
 10 Q Was there a car in the parking lot?
 11 A Yes. It was facing toward Fish Town.
 12 Q Did that car drive away after the shooting?
 13 A Yes.
 14 Q But before anybody got there, like the police or
 15 fire or anything like that?
 16 A Yes.
 17 Q Did you call 911?
 18 A Yes.
 19 Q And then the police came?
 20 A Yes.
 21 Q Did the fire department come, like a fire engine?
 22 A No.
 23 Q Did an ambulance come?
 24 A Yes.
 25 Q Did they drive into the parking lot?

1 A Yes.
 2 Q And then you stayed and gave information to the
 3 police, right?
 4 A Yes.
 5 Q And then you went downtown and gave a statement?
 6 A Yes.
 7 Q And you didn't see anybody shooting, right?
 8 A Right.
 9 Q You're just doing your job?
 10 A Right.
 11 Q And the only other involvement you had in this
 12 case is when the lawyers started talking to you
 13 and then you came here?
 14 A Yes.
 15 MS. PARSONS: I don't have any further
 16 questions. Thank you.
 17 THE COURT: Any redirect?
 18 MR. TONEY: Yes.
 19 REDIRECT EXAMINATION
 20 BY MR. TONEY:
 21 Q Ms. Gray, I want to just make something clear.
 22 The customer that had come in to order their food
 23 and was parked outside, when you first went out to
 24 their car or when they first came in, there was no
 25 dead body laying in the parking lot, was there?

1 A No.
 2 Q Okay. And then you prepared whatever for them and
 3 then you came back to see what they were doing or
 4 to bring it out to the car to them?
 5 A I was going to tell her her food was ready, but
 6 she had already came in.
 7 Q But she had come in. And when she came in, that's
 8 when she told you that there was --
 9 A No. There was another gunshot and I handed her
 10 her food, and she turned around to walk out and
 11 she said there was somebody laying in the parking
 12 lot.
 13 Q Okay. But that gunshot didn't come from that
 14 parking lot?
 15 A No.
 16 Q All right. So to the best of your knowledge, you
 17 were right there at Fish Town that night and
 18 nobody was standing in that parking lot shooting?
 19 A No.
 20 MS. PARSONS: Objection, Your Honor.
 21 She doesn't know that. She couldn't see it. I
 22 object to the form of the question.
 23 THE COURT: Overruled.
 24 Q (By Mr. Toney) You can answer. Do you want me to
 25 do the question again?

1 A There wasn't nobody in the parking lot shooting.
 2 MR. TONEY: All right. Thank you.
 3 RECROSS-EXAMINATION
 4 BY MS. PARSONS:
 5 Q Ma'am, you couldn't see even if there was, could
 6 you?
 7 A No, but I could hear the sounds and it came from
 8 by the church.
 9 Q Fair enough, but you couldn't see if someone shot?
 10 A No.
 11 MS. PARSONS: All right. Thank you.
 12 REDIRECT EXAMINATION
 13 BY MR. TONEY:
 14 Q Ms. Gray, you've heard gunshots before, is that
 15 correct?
 16 A (Nods head affirmatively.)
 17 Q Is that a "yes"?
 18 A Yes.
 19 Q Okay. And if a gun is right ten feet from the
 20 door of your business, you would be able to know
 21 that, wouldn't you?
 22 A Yes.
 23 Q But that didn't happen, did it?
 24 A No.
 25 MR. TONEY: Thank you.

1 Q Now, I want to refer you to State's Exhibit
 2 Number 3. In Exhibit Number 3, you see at 28th
 3 and Prospect the outline of a building, is that
 4 correct?
 5 A That's 2844 Prospect.
 6 Q And that would be that AME church that's there on
 7 the corner?
 8 A Correct.
 9 Q Okay. And on this exhibit, you see where there
 10 are some initials, "WL"? Do you see those
 11 initials?
 12 A Yes.
 13 Q All right. Now, did I ask you to measure from
 14 that approximate spot where the church was over to
 15 where you located the body?
 16 A Correct.
 17 Q Okay. And did you and other crime scene
 18 technicians make that measurement today?
 19 A Yes.
 20 Q Would you please tell the Court what that
 21 measurement was?
 22 A One hundred and eighty-nine feet.
 23 Q And did you all measure it more than once to make
 24 sure that that was accurate?
 25 A Yes.

1 THE COURT: Anything further?
 2 MS. PARSONS: No, sir.
 3 THE COURT: That's all. You may step
 4 down. Thank you, and watch your step.
 5 (Witness excused.)
 6 MR. TONEY: Your Honor, I would next
 7 call crime scene technician Van Ryn.
 8 GREGORY VAN RYN,
 9 having first been duly sworn, testified as follows:
 10 FURTHER DIRECT EXAMINATION
 11 BY MR. TONEY:
 12 Q Good afternoon, Officer.
 13 A Hello.
 14 Q I had contacted you this morning about going back
 15 out to the crime scene at the Fish Town at 2831
 16 Prospect, correct?
 17 A Correct.
 18 Q And as fate would have it, we met up there today
 19 at about 12:30, is that correct?
 20 A Correct.
 21 Q And at my request, did you do a measurement of the
 22 distance from where the body was located to where
 23 the end of the church was, the church that's
 24 located across the street? Is that correct?
 25 A Correct.

1 Q And 189 feet -- three feet equals one yard -- that
 2 would be 60 yards, wouldn't it?
 3 A I'm not that good at math.
 4 Q Okay. Well, if I told you six times three is 18,
 5 that would be 180?
 6 A Okay.
 7 Q So that is 60 yards? Are you a football fan?
 8 A Not really.
 9 Q Okay. Do you know how long a football field is?
 10 A I believe it's 100 yards.
 11 Q Okay. So 50 yards would be to at least halfway,
 12 and then another 10 yards past that, correct?
 13 A Correct.
 14 Q Okay. Now, on the night that you went out when
 15 the shooting first occurred, that was October the
 16 6th, correct?
 17 A Correct.
 18 Q Okay. And I want to show you what's been marked
 19 as State's Exhibit Number 6, and you've probably
 20 already looked at that picture but I want to ask
 21 you -- it was dark that evening, wasn't it, when
 22 you went out there?
 23 A It was nighttime, yes.
 24 Q And I see that the picture is illuminated. Do you
 25 all use flashes on your cameras to take those

1 Did you serve the subpoena personally?
 2 MR. TONEY: Yes, I did, Your Honor, I
 3 served her personally with the subpoena.
 4 THE COURT: Very well. I'm issuing the
 5 attachment for the witness.
 6 MR. TONEY: Okay.
 7 THE COURT: And as soon as we get this
 8 processed, I understand that both counsel for the
 9 State and counsel for the defendant have
 10 requested that the Court go to the scene for a
 11 personal view of the area?
 12 MR. TONEY: That is correct, Your
 13 Honor.
 14 MS. PARSONS: Yes, sir.
 15 THE COURT: We'll make arrangements to
 16 do that today, and then I would propose that we
 17 continue the matter until, say, 2:00 tomorrow.
 18 MS. PARSONS: Okay.
 19 THE COURT: We'll see what the
 20 situation is then, whether she's been brought in
 21 on the writ or not, and if she has, then we can
 22 proceed, assuming that I am through with the
 23 other matter that I have scheduled for tomorrow
 24 morning. At least, we can just see what happens
 25 and proceed if we can.

1 Q Good morning, Ms. Bell.
 2 A Good morning.
 3 Q Would you state your name for the record.
 4 A Vernetta Marie Bell.
 5 Q And, Ms. Bell, what is your date of birth?
 6 A September 22nd, 1958.
 7 Q Where do you live?
 8 A 3224 Quincy.
 9 Q Is that in Kansas City, Missouri?
 10 A Yes, it is.
 11 Q And how long have you lived in Kansas City?
 12 A Oh, all my life.
 13 Q I want to call your attention to October the 6th
 14 of 2003. Were you living in Kansas City at that
 15 time?
 16 A Yes.
 17 Q Were you in the area of 29th Street between
 18 Prospect and Olive on that day?
 19 A Yes, I was.
 20 Q All right. How frequently did you go to that
 21 area?
 22 A Off and on, I'll say -- what, like maybe once or
 23 twice every week.
 24 Q Okay. And let's just cut through some of this.
 25 What was your purpose for going to that area?

1 MR. TONEY: Okay.
 2 THE COURT: So at this time, we'll
 3 adjourn on this case until tomorrow at 2:00 p.m.
 4 MS. PARSONS: Okay.
 5 MR. TONEY: Thank you.
 6 (Whereupon, the Court adjourned until
 7 10:00 a.m., Monday, November 14th, 2005, at which
 8 time the following proceedings were had:)
 9 THE COURT: All right. Counsel, this
 10 is the case of State versus Keith Carnes, and it
 11 was continued until this date for further
 12 evidence, namely, Vernetta Bell. She apparently
 13 had to be brought in through body attachment and
 14 I understand she's here now.
 15 Are you Vernetta Bell?
 16 THE WITNESS: Uh-huh.
 17 THE COURT: Will you please stand a
 18 moment and be sworn.
 19 THE WITNESS: (Complies.)
 20 MR. TONEY: May I proceed, Your Honor?
 21 THE COURT: Yes, sir.
 22 VERNETTA BELL,
 23 having first been duly sworn, testified as follows:
 24 DIRECT EXAMINATION
 25 BY MR. TONEY:

1 A Well, most of the time I went down there -- I had
 2 family down there, plus, I did the dealings that
 3 I did down there.
 4 Q Okay. Did you go down there to buy drugs at some
 5 time?
 6 A Yes.
 7 Q Okay. Did you go down there to sell drugs at some
 8 time?
 9 A Yes.
 10 Q Okay. During the time that you were frequenting
 11 that area in October of 2003, did you ever have an
 12 occasion to meet a person by the name of Larry
 13 White?
 14 A Yes, I did.
 15 Q Okay. Will you tell the Court how you knew Larry
 16 White?
 17 A Well, I knew Larry some years ago because he
 18 stayed -- he went with a niece of mine and he
 19 stayed in the same complex over on The Boulevard,
 20 named Lena.
 21 Q So he dated a niece of yours?
 22 A Uh-huh.
 23 Q Is that a "yes"?
 24 A Yes.
 25 Q So you've known Larry White for a while?

"Ground Two"

"Sufficiency of the"
EVIDENCE

Ground Two

Sufficiency of the Evidence

The only EVIDENCE that links appellant Keith L. Carnes to the murder of Larry White is the states EYEWITNESS testimony from Lorianne Morrow and Wendy Lockett, so submitting supporting facts Establishing the insufficiency of that ALLEGED EVIDENCE testimony is a NECESSARY argument that's being raised BECAUSE the EVIDENCE in support of appellants state conviction cannot be fairly characterized as sufficient proof to have led a rational trier of fact to find guilt beyond a reasonable doubt of the EXISTENCE of EVERY ELEMENT of the offense.

U.S.C.A. Const. Amend. 14

With regards to the particular ESSENTIAL ELEMENTS involving the shooting death of Larry White on the parking lot of the Fish town restaurant, as testified to by the ALLEGED EYEWITNESSES.

Lorianne Morrow version of the EVENT is that appellant is by himself on the parking lot when he turned the victims body over, after he collapsed, stood right over him and shot the victim 5 to 6 more times from point-blank range with a AK-47 assault rifle (Trial 3, pgs. 132, 145-147).

Wendy Lockett version is that appellant is with someone ELSE on the parking lot and that appellant stood right over the victim and not back aways and shot the victim "one time" in the head after he'd collapsed. Lockett testified that she NEVER saw victim get turned over nor SEE or HEAR 5 to 6 more shots and that she knows what a rifle looks like and that the victim was shot one time in the head with a pistol (Trial 3, pgs. 227-228 and 231-233).

The states medical EXAMINER Dr. Gill testimony Elaborating on the damage that would be anticipated from a high-velocity projectile at a close range of 4 to 5 feet away, particularly referring to the head wound, which lacked the radiating tears you would see at the entrance wound produced by kinetic energy from greater amounts of gun powder that undergoes a combustion that brings forth a great deal of gas which would cause temporary cavitation, a massive defect, and increased damage to the tissues at the entrance wound (Trial 3, pgs. 335-336 line 1-3). Dr. Gill testified in (Trial 2) that they looked at the victims clothing very carefully and that that's a very important part of their examination because the clothing can absorb the soot, stippling and so forth, but they found none (Trial 2, pgs. 26-27). Dr. Gill labeled all the wounds as distant shots fired from more than 3 feet away (Trial 3, pg. 318) and testified, that to a reasonable degree of medical certainty, based on the evidence, that the head and body wounds are not consistent with the victim being stood over and shot (Trial 3, pgs. 332, 339, 340).

The physical evidence proves that the shooter is in the yard of 2846 Wabash area where 12 spent shell casing were retrieved by police (Trial 3, pgs. 83-85).

Alleged eyewitness Lorianne Morrow testified in (trial 3) that she witness appellant shooting from the yard of 2846 Wabash and that only "3 shots" occurred (Trial 3, pgs. 137-138). Morrow testified in (trial 2) that she never saw appellant in the yard of 2846 Wabash (Trial 2, pgs. 149-152). In Morrow's

(deposition) she states that she NEVER saw appellant in the yard of 2846 Wabash holding or firing a gun (Deposition pg. 2, line 10). Morrow states in her original police statement when questioned by Det. Williamson; Q. "Did you actually see the shots at Fish Town", or did you hear them? Morrow's response, A. "I heard them."

Alleged Eyewitness Wendy Lockett testified that she initially heard 2 shots when the shooting kicked off and only one shot when she got up to the church, from looking across the street to Fish Town (Trial 3, pg. 199, line 13-25). A calculated evaluation on the window of time for the escape route Lockett testified to taking, where she said took her right next to 2846 Wabash, (where the shooter would have been firing the 12 spent shell casings) but she NEVER mentions anything and claims that she kept running east crossing Wabash headed toward the church on Prospect (Trial 3, pg. 223). Lockett testified that she doesn't know where anybody went once the shooting started and that no one was with her when she got up to the church (Trial 3, pg. 199, line 1-9), but in (Trial 2) Lockett testified that her and Felicia Jones run together from Olive, through backyards then to Wabash headed all the way to the church on Prospect (Trial 3, pgs. 219-220). Lockett testified that she was not using crack cocaine on that particular day of the shooting (Trial 3, pg. 185, line 11-14) but in (Trial 2) Lockett testifies to smoking a eighth of an ounce (8 ball) on the day of the shooting (Trial 3, pgs. 207-208).

Officer Shawn Campbell (First Responding officer) SECURED the CRIME SCENE at Fishtown and THEN was directed to 2846 Wabash, BECAUSE statements from witnesses said that the shots came from that general direction (Trial 3, pg. 47), he also looked around for shell casings at Fishtown and found NONE or any apparent holes in the asphalt from gun shots WERE detected (Trial 3, pg. 52 line 14-25).

ST Gregory Van Ryn testified that DETECTIVES RECEIVED information from witnesses that shots WERE heard in the 2846 Wabash area, so he was directed to base his investigation there (where a total of 12 spent shell casing WERE collected), and at Fishtown where he found nothing of evidentiary value (shell casing, spent bullet or anything of that nature), the only evidence he collected from the Fishtown parking lot WERE the victims clothes (Trial 3, pgs. 65-66).

Detective Bream, the assigned case detective testified that he went west down the street to the apartment complex on 29th and Olive looking for evidence, but found none and that other detectives in his squad WERE working with him as well (Trial 3, pg. 258).

Officer Kathryn May of the fire arms section testified that the states Exhibit 35 (Mac 90 assault rifle that was collected in the 29th and Olive apartment complex) matched all the shell casing from the crime scene (Trial 3, pg. 347 line 13-17) and that none matched number 58 (SKS rifle that was collected at appellants residence located at 4224 E. 58th st.) (Trial 3, pg. 352 line 20-21).

Marva Gray (Fishtown Cashier) testified that no shooting took place in their parking lot and that she heard shooting towards the west down 29th st.. Testified that she's heard gunshots before and although she didn't see any shots she could hear them

and that those shots came from by the church and if gunshots were fired from 10 feet from the door of her business (location of victim's body) she would know-but that didn't happen and that there wasn't nobody in the parking lot shooting (Trial 3, pgs. 374-386).

Vernetta Bell testified that she was friends with the victim Larry White and that he was standing on the corner of 29th and Wabash as she was headed down the hill towards 29th and Wabash. She states that she didn't see Morrow or Lockett as she crossed over Wabash when the shooting started, she then ran west in the direction of 29th and Olive towards the apartment buildings as the shooting continued from behind her. She testified that appellant was standing in the doorway of the middle apartment building, that he didn't have a gun, was not shooting at anybody and was peeking up there like everybody else was. Said she was arrested on the day of this incident around midnight but wasn't questioned by law enforcement about the case. Ms. Bell testified that nobody told her to lie or anything and she started not to get involved but when she found out appellant was facing life for something she knew he couldn't have done because she was standing with appellant when this happened and knows that she was with the victim and that appellant was nowhere around them. Stated that she knew appellant was in front of the apartments while the shooting is going on, so coming forward to testify was something she felt she was supposed to do (Trial 3, pgs. 404-425).

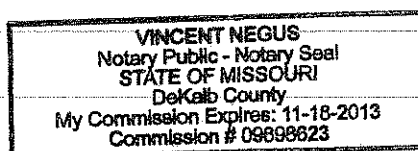
The States medical Examiner Dr. Gill labeled all of the wounds as "distant shots" that went through and through, one to the head, two to the chest and one graze wound (Trial 3, pg. 306, 318 line 3-13). The facts explained from the testimony of Dr. Gill about the abrasions analyzed on Mr. Whites left eye brow, nose and lip are called blunt force injuries (Trial 2, pgs. 19, line 22-20, line 1-4) indicating that it could've been caused by falling, and being consistent with Mr. White getting shot while running, then hitting the ground (Trial 3, pgs. 342-343).

Wherefore appellant request that this court order his immediate release on the ground of sufficiency of the evidence from the facts submitted, proving actual innocence, and because the essential of the due process guaranteed by the Fourteenth Amendment that no person shall be made to suffer the onus of a criminal conviction except upon sufficient proof - defined as evidence necessary to convince a trier of fact beyond a reasonable doubt of the existence of every element of the offense. In re Winship, 397 U.S. 358, 90 S.Ct. 1068, 25 L.Ed. 2d 368, Pp. 2786-2788.

"What Does The Evidence Really Say"?

Respectfully Submitted
Keith L. Carnes
Keith Carnes

Vio 3-20-12



Trial
Two

Dr. Gill

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Transcript of the Testimony of

Date: April 20, 2005

Volume:

Case: STATE OF MISSOURI v. KEITH L. CARNES

Printed On: 7/26/2005

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(20)

1 Beyond six inches, you don't get the soot. Soot
2 wipes away. It's something that's just a coating on
3 the outside.

4 Along with this is traveling particles of the
5 gunpowder. It occurs in ball, flake, cylinder, and
6 some variations on that, and these little particles
7 are on fire, but they haven't completely burnt up
8 and turned into gas or soot and they're traveling
9 with, but just slightly behind the bullet, and ours
10 at two and a half to three feet, these will impact
11 the skin around the entrance wound and produce what
12 we call stippling.

13 It is like little firebrands and they make
14 little burn spots which look like little red dots.
15 The further out you get, the wider the spread of
16 these dots and the less dense the pattern of the
17 dots, so we get kind of a rough idea of how far out
18 from the muzzle the gunshot wound is. Beyond two
19 and a half to three feet, then we don't get any of
20 these clues as to what the distance is, and so we
21 refer to this as a distant wound.

22 Now the one thing that you need to consider in
23 this, and it's very important, is the clothing, and
24 the clothing was looked at very carefully here. The
25 clothing can absorb the soot, this stippling and so

1 forth, and so you don't see anything underneath.

2 ➔ But we looked at the clothing and that's a very
3 important part of our examination, and we don't see
4 any evidence of these materials deposited on the
5 clothing surrounding the entrance wounds.

6 Q. So does that lead you to the conclusion that these
7 shots came from a distance?

8 A. That is correct.

9 Q. Now is there anything that would indicate that
10 someone stood over this man with a gun and shot him?
11 Right over him two or three feet, right over and
12 shot him, anything to indicate that?

13 A. It seems inconsistent unless he was extremely tall.
14 No. I'm only 5 08" or 5 09"

15 Q. Now showing you what's been marked as State's
16 Exhibit No. 35, in our conversation about this case
17 we talked about what would happen if a person was
18 shot from a very close range with that type of gun,
19 correct?

20 A. Yes.

21 Q. What would you expect to find if the person was shot
22 with someone standing right over them with that kind
23 of gun?

24 A. Well, in close proximity and particularly in a
25 contact or near contact or partial contact wound,



IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI,)
)
Respondent,)
)
vs.)
)
KEITH L. CARNES,)
)
Appellant.)

COPY

Appeal No. WD 67426

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
SIXTEENTH JUDICIAL CIRCUIT
Honorable Gene R. Martin, Senior Judge

STATE OF MISSOURI,)
)
Plaintiff,)
)
vs.)
)
KEITH L. CARNES,)
)
Defendant.)

Case No. 16CR03006321

TRANSCRIPT ON APPEAL
VOLUME I OF I
Pages 1 thru 572

FOR THE PLAINTIFF:

FOR THE DEFENDANT:

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(14)

JIM BOUCK, CCR, CSR, PSSC, CVR-CM-RVR

Official Reporter, Circuit Court of Jackson County, Missouri

1 correct?
 2 A Only if it's closer than two and a half to
 3 three feet.
 4 Q If it is closer than two and a half to three feet?
 5 A Yes.
 6 Q Okay. Now, let's reverse the body and have them
 7 on their back; instead of in the prone position,
 8 they're on their back.
 9 A All right.
 10 Q All right. Would you expect to see the type of
 11 trajectory that you found here if the person is
 12 laying on their back and the person is being shot
 13 from a close angle -- close range?
 14 A Well, again, if the head is turned to the side --
 15 and I'll indicate here that I'm turning now to
 16 the left side so that this exposes the right side
 17 of the head. If there is a person lying on their
 18 back, they could from a certain angle -- I guess
 19 it would be back here. Depending on how far it
 20 was turned, you could get this kind of an angle.
 21 Q Okay. Now, you and I talked about that earlier
 22 and you indicated that in order to get a shot like
 23 that the shooter would almost have to be crouched
 24 down to shoot, instead of standing over?
 25 A Yes. Because of the forward component of the

1 transcript, page 27, line 9.
 2 MS. PARSONS: We don't have it.
 3 MR. TONEY: You don't have it?
 4 MS. PARSONS: Just go ahead, we'll
 5 figure it out.
 6 MR. TONEY: Okay.
 7 Q (By Mr. Toney) "QUESTION: Now, is there anything
 8 that would indicate that someone stood over this
 9 man with a gun and shot him, right over him, two
 10 or three feet, right over him and shot him,
 11 anything to indicate that?" What is your answer?
 12 MR. TWENTER: Your Honor, objection. I
 13 don't believe this is proper impeachment. The
 14 question Mr. Toney asked him is not the question
 15 he is being asked in that transcript.
 16 THE COURT: Overruled.
 17 THE WITNESS: Well, the only thing I
 18 see here --
 19 Q (By Mr. Toney) I would like for you first to
 20 tell the Court for the record what your answer
 21 was.
 22 A The answer is, "It seems inconsistent, unless he
 23 was extremely tall. No."
 24 Q And you said, "No," correct?
 25 A Right. I may not have been thinking clearly, but



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1 trajectory, it would seem like that would be the
 2 case.
 3 Q Right. Just so the Court is clear, if they're
 4 laying on their back, from a close shot, they
 5 would have to be -- what you told me earlier is
 6 that they would have to be crouched down sort of
 7 like this to be able to shoot and get that type of
 8 trajectory?
 9 A Well, again, I suppose the issue is how far would
 10 their head have been turned. If they were
 11 tucking their head or something like that --
 12 unfortunately, the human head has got a lot of
 13 mobility, but I was thinking of it, you know,
 14 sort of in a very simple way, like this
 15 (Indicating).
 16 Q All right. Now, Doctor, do you remember telling
 17 me that based on the trajectory, the way the
 18 bullet traveled, the trajectory of the bullet's
 19 path, and the lack of finding indications of
 20 stippling or soot, that it was inconsistent with
 21 the person being shot while laying on the ground?
 22 A Well, it would be -- if I said that, I'm sorry.
 23 I mean, it's possible, obviously, from what I've
 24 just said.
 25 Q I want to call your attention to the trial

1 I think the point is, I don't think there's any
 2 evidence one way or the other. I think it's kind
 3 of an open question. There is no evidence that
 4 the person was standing over them, but it's
 5 possible.
 6 Q And that's what I'm trying to get at.
 7 A Yeah, I agree.
 8 Q To a reasonable scientific certainty, there is no
 9 evidence here that the person was standing over
 10 him. That's what you've told me before. Is that
 11 what you're saying now?
 12 A Yeah. You -- not you personally, but it would be
 13 asking too much of the physical evidence to
 14 make -- this is more supposition. This is
 15 something that goes beyond the purview of what we
 16 can find out from the autopsy.
 17 Q All right. Now, we talked about what you would
 18 expect to see with a high-velocity rifle shot. Do
 19 you remember us having that conversation?
 20 A Yes.
 21 Q All right. Would you explain to the Court what
 22 you would expect to see from a high-velocity shot
 23 to the cranium as from, say, a pistol? What would
 24 you expect to see, the difference there?
 25 A Well, again, the issue of the amount of energy,

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1 so-called kinetic energy, energy in motion, if
2 you'll remember your high school physics, is much
3 greater. The equation is $1/2MV^2$ equals -- energy
4 equals $1/2MV^2$, the mass times the velocity
5 squared. So every time that you double the
6 velocity, you quadruple the amount of energy
7 imparted. What the significance of this is, is
8 that this temporary cavitation gets greater and
9 greater and it will shred and explode things.
10 There are demonstrations where they shoot it into
11 pineapples or grapefruit. Well, at any rate, I
12 think I alluded to that on the direct
13 examination, and that's the sort of thing that we
14 look for in combination with the exit wounds,
15 which are characteristically much larger.

16 Now, if we're talking about a contact
17 wound or a close wound, then the entrance wound
18 also takes on, at least some of the time,
19 characteristics that are different or distinct in
20 a high velocity, but at a distance, if there is
21 no intermediate target to destabilize the
22 projectile, the entrance wounds can be remarkably
23 rather benign and, if anything, look less
24 impressive than they do with handguns, because
25 the projectiles, in reality, are hardly much

1 increased damage to the tissues that I described,
2 yes, because that doesn't rely on just the gases,
3 but the velocity of the projectile.

4 Q And if you go back a distance, if you go back,
5 say, 50 to 100 to 200 feet, same high-velocity
6 rifle, what do you expect to see then?

7 A Well, I don't think that anybody has ever said
8 that we can, you know, make too much of a
9 statement about this, but obviously as you get
10 further and further away there is going to be
11 some decrease in the amount of damage. I mean,
12 you can't just go out to infinity because there
13 is a certain amount of drag in the atmosphere
14 here. If we were in outer space or something,
15 that wouldn't be the case, but I really don't
16 think that forensic pathologists are in a
17 position to make any kind of statement whether
18 this was, you know, 100 or 1000 yards away or
19 anything. I just don't know anything in the
20 literature that comments on that.

21 Q What I'm asking you is -- I'll just cut to the
22 chase here. The issue here is whether or not
23 you're able to say, "Hey, this guy was shot from
24 somebody standing three to four feet over him," or
25 whether it appears to be that it may have been

1 larger than a .22 or a .25 caliber.
2 Q Now, Dr. Gill, let's stay on that same track here.
3 With a high-velocity projectile -- if you have a
4 contact wound, with a high-velocity projectile,
5 what would you expect to see in terms of what
6 would happen inside of the cranium, if you have a
7 contact wound?

8 A Because of the velocities derived from a greater
9 amount of gunpowder, as the gunpowder undergoes
10 combustion it produces a great deal of gas. The
11 gas is injected into the skull so you get these
12 kind of radiating tears and massive defect on a
13 contact wound at the entrance as well as the
14 exit, and sometimes you have just a complete
15 destruction and huge cranial defect. So that's
16 what you see.

17 Q Now, if you're, say, a short distance -- instead
18 of the contact wound, now, we're going to move to
19 the intermediate. Okay?

20 A Uh-huh.

21 Q We'll say three to four to five feet away. Would
22 you expect to see mass destruction inside of the
23 cranium if he's shot with a high-velocity rifle
24 from that close range?

25 A You'll see the temporary cavitation and the

1 from a greater distance away. That's the issue
2 here. Are you able to determine that?

3 A The answer is, no, conservatively we really
4 can't.

5 Q Okay. But you can determine that it wasn't a
6 contact wound and it wasn't within that three-foot
7 range where you get the soot and stippling,
8 correct?

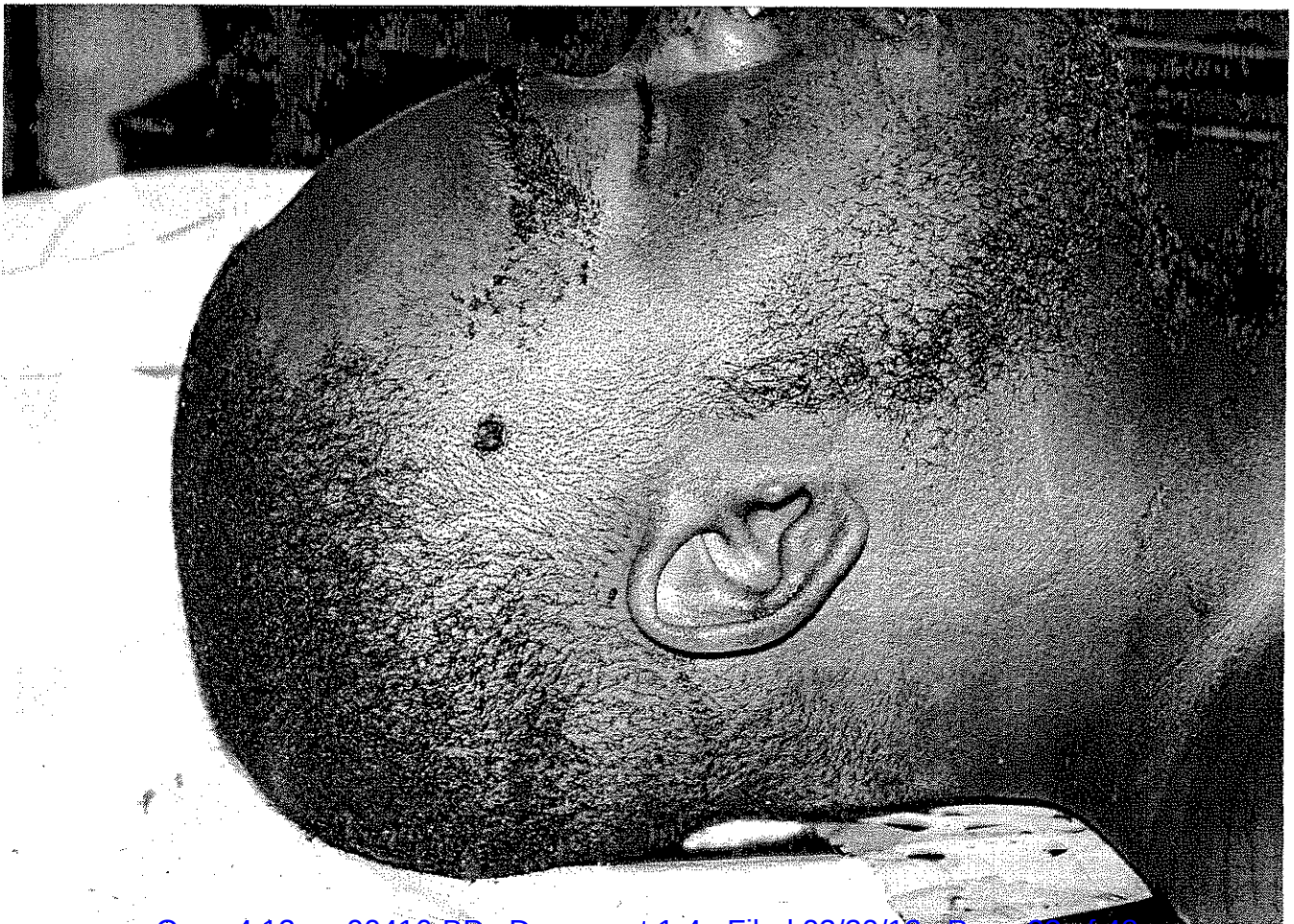
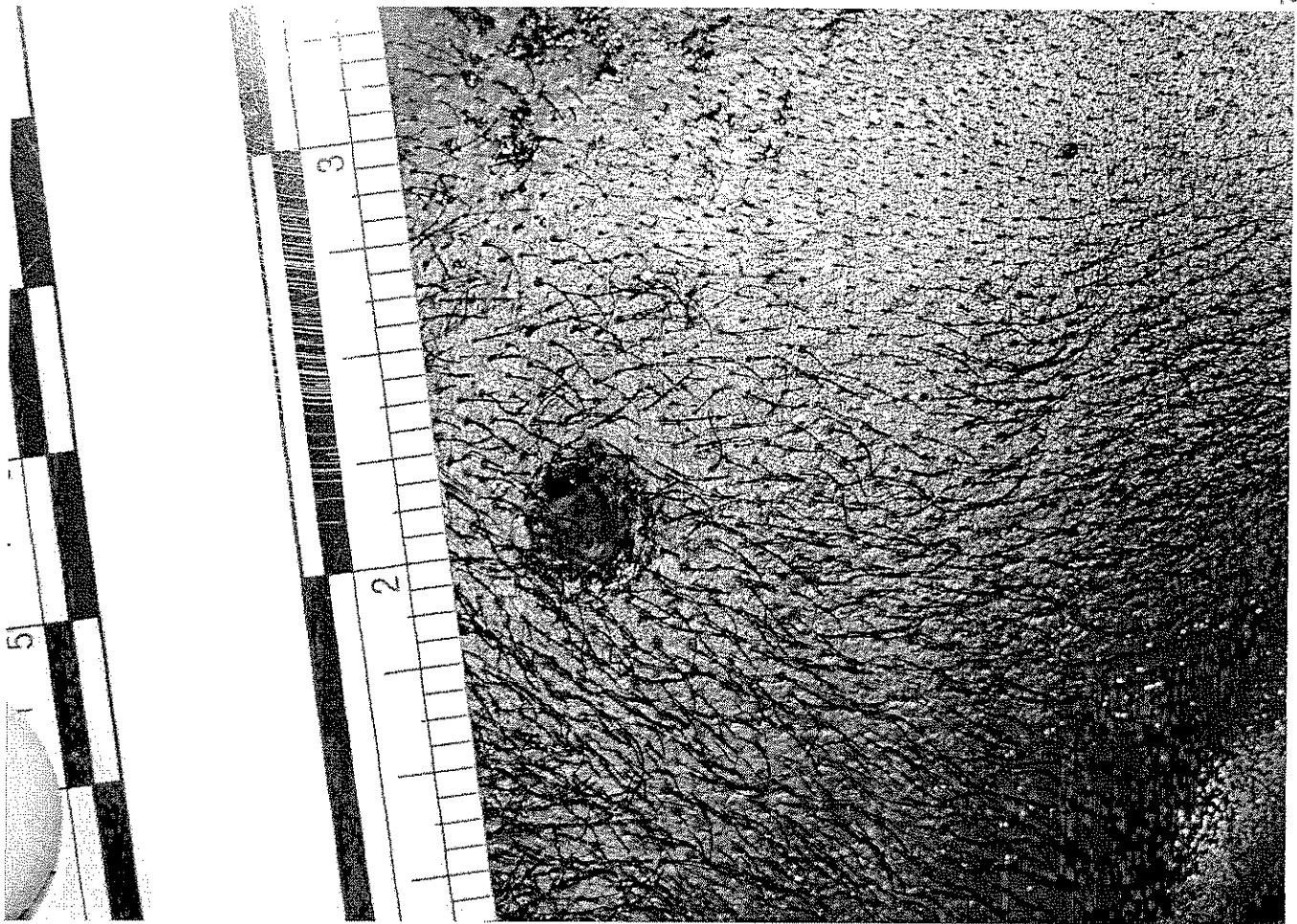
9 A Correct.

10 Q Now, I want to move on to the other wounds here.
11 That would be what you've marked as wound number
12 two and wound number three, right?

13 A Uh-huh.

14 Q Did those wounds appear to come from the back, for
15 example, someone running away from you, or did
16 they appear like the person shot from in front of
17 you?

18 A Oh, I think that they are probably, technically
19 speaking, neither. They are really from the
20 side, from the right side. I mean, again, you
21 have all of these possible movements. One
22 scenario would be just a slight turn of the body
23 of the victim so that these things are
24 basically -- I mean, it's sort of like, you know,
25 the next step up from a graze, because they seem



1 to just tunnel underneath the skin and remarkably
 2 don't do that much damage.
 3 Q You testified that wound number two was from back
 4 to front, right to left, and upwards?
 5 A Yes.
 6 Q Okay. So back to front would be this way?
 7 A Yes.
 8 Q And exited this way?
 9 A Yes.
 10 Q If the person is standing in front of you shooting
 11 you, wouldn't you expect it to be the opposite?
 12 A Yes.
 13 Q Okay. So would it be fair to say that it appeared
 14 that the person, the victim here -- these wounds
 15 would not have come if he were facing his shooter?
 16 A That's correct.
 17 Q Okay. And that would be both of those wounds,
 18 number two and wound number three, correct?
 19 A Correct.
 20 Q And also the graze wound?
 21 A Yes.
 22 Q All right. Now, if a person is laying on the
 23 ground and faceup, would you expect to find wound
 24 number two or three if they were shot while they
 25 were laying on the ground faceup?

1 A Correct.
 2 Q Okay. And the graze wound would not have been
 3 life-threatening, is that correct?
 4 A Correct.
 5 Q Do you have any medical evidence that would
 6 support the statement that someone stood over the
 7 victim and shot him in the head? Is there any
 8 medical evidence to support that?
 9 A Nothing in the report that, you know, supports,
 10 in other words suggests, that was how things
 11 occurred, no.
 12 MR. TONEY: Okay. Thank you.
 13 MR. TWENTER: I just have a few
 14 questions on redirect, Your Honor.
 15 THE COURT: Very well.
 16 REDIRECT EXAMINATION
 17 BY MR. TWENTER:
 18 Q You and Mr. Toney were just discussing shots two
 19 and three and the graze wound?
 20 A Yes.
 21 Q On this diagram where you have diagramed out the
 22 trajectory, it appears that you're saying the
 23 graze wound was going down from the front?
 24 A Yes.
 25 Q Were you mistaken when you told Mr. Toney the

1 A Those would be very awkward. I mean, I suppose
 2 it's physically -- well, with a long-barrelled
 3 weapon, it would be very, very awkward, because,
 4 I mean, you know, it appears that these are two
 5 and a half to three feet behind, and it's around
 6 on the side here and it's going forward.
 7 Q So those wounds would be inconsistent with --
 8 A A person laying faceup. That's what we're
 9 talking about?
 10 Q Right.
 11 A Okay. Good.
 12 Q So, Dr. Gill, based upon your experience and
 13 within a reasonable degree of medical certainty,
 14 would you conclude that wounds numbers two and
 15 three and the graze wound did not come from shots
 16 from someone standing directly over the body?
 17 A Directly over the body?
 18 Q Yes.
 19 A Yes.
 20 Q Okay. Now, you indicated to the prosecutor that
 21 the shot to the head was the shot that resulted in
 22 this person's death, is that correct?
 23 A Correct.
 24 Q The other two shots would not be life-threatening,
 25 in and of themselves?


1 graze wound came from the back then?
 2 A It doesn't go from the back.
 3 Q Does it kind of come from above?
 4 A Yeah. So it actually could occur from somebody
 5 standing probably at the head and shooting
 6 downwards, so that it would pass downwards and
 7 from right to left, grazing the left side of the
 8 thorax, yes.
 9 Q Could it also come, I don't know, from somebody
 10 30 feet away, above me, shooting going down then?
 11 A I guess so. I mean, that would be a shallow
 12 angle, but I guess so.
 13 Q It's possible that happened?
 14 A It's possible.
 15 Q All right. Also, Mr. Toney asked you if you could
 16 say within a reasonable -- I'm sorry, let me start
 17 that question all over. Mr. Toney asked you if
 18 there was any medical evidence that somebody stood
 19 over this person and shot them in the head, and
 20 you said no, correct?
 21 A But what I meant by that is that there is nothing
 22 that says that's explicitly -- we've already gone
 23 over this, that if a person's head was turned in
 24 a certain fashion --
 25 Q You can't say for certain one way or the other,

8 Q. When Tre started chasing him through the alley, which way did they run?

A. They were going north up the alley then east towards Prospect.

9 Q. When they started running east towards Prospect, what happened next?

A. Larry hollered out "I'm gonna die. I'm gonna die." Then he collapsed right there at fish town.

0 Q. Was anybody with Tre while Larry was being chased? 

A. Yes. His name is Kiki.

11 Q. Was Kiki carrying anything?

A. He had a gun but I couldn't see his as good as Tre's.

12 Q. What kind of gun did Kiki have?

A. His was small. It wasn't as big as the one Tre had.

13 Q. Did Kiki fire any shots?

A. No.

14 Q. What happened when Larry collapsed at fish town?

A. Tre rolled him over then shot him some more, probably five more times.

15 Q. Did you see these shots or did you see them?

A. I heard them, seen the fire from the bullets.

16 Q. Did you actually see the shots at fish town or did you hear them?

A. I heard them.

17 Q. What was Tre wearing that night?

A. He was dressed in all black with a hooded sweatshirt and black pants.

seen

she never should have
been able to take
the stand and
testify

L.M

WLT
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**MEMO TO FILE:
STATE VS. KEITH CARNES**

WITNESS FOR STATE: Lorianne Morrow

Interview of Lorrianne Morrow - taken 10/26/04 in Jackson County Prosecutor's office - also present Amy McGowan assistant prosecuting attorney

Ms. Morrow stated the following:

1. She resides in Kansas City, MO but does not want to give her address or telephone number. Middle age black female with dreadlocks - very thin and nervous
2. On October 2003 she was visiting the area of 29th Wabash looking for a friend of hers. She was frequently in the area.
3. Arrived between 8 - 8:30PM - it was dark outside and she was walking east bound on 29th Street between Olive and Wabash. Even though dark she claims to be able to see real well.
4. Saw Tre on balcony of first building. Says he was yelling at victim [Larry] from the balcony stating he needed to stop selling drugs on his turf
 - a. says Tre did not live there - claims it was not Tre's turf
 - b. Tre was wearing black hood sweat shirt
5. Says after yelling - Tre ran outside and began shooting at the victim and chasing victim east bound on 29th Street toward Prospect Ave. Says Tre and Kiki started chasing him - both had guns but only Tre was firing gun [claims Tre's gun was black AK-47 with clip]
6. Several people were outside observing this incident
 - a. Kiki (chasing victim) (Kiki had a gun in his hand)
 - b. Wendy Lockett
 - c. Lisa
 - d. Star (white female) -last name unknown
 - e. Sherry (white female) -last name unknown
 - f. Red (black male) -last name unknown

10/27/04

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7. She was continuing to walk toward Prospect as the events took place - says Tre never saw her - but she saw Tre and he had a patch over his eye
8. Claims Tre ran off the balcony - then out the front door - north down the alley then east behind the house, then east up 29th Street toward Prospect
 - a. Claims she was standing on the corner of 29th and Wabash by the volleyball court while this was taking place ← *
 - b. lost sight of Tre for a moment when he went behind the house - but could still hear shots [no bullets found in street on 29th]
 - c. claims she went up 29th Street and hid in the shadows by the church [church is on corner of 29th and Prospect] where Tre could not see her. From there she watched the execution of victim in Fish Town parking lot
 - d. claims she watched Tre run up on victim as victim lay dying in parking lot of Fish Town, roll victim's body over and shoot victim 5-6 times while the victim laid on the ground.
[no bullets found in parking lot - no frontal wounds on victim]
9. After shooting claims she walked north on Prospect to 28th Street then east on 28th Street to her friend's house
10. Never saw Tre standing on porch of 2846 Wabash holding or firing a gun
11. Says Tre walked back to buildings and was laughing [How did she see or hear this if she was on Prospect going north toward 28th Street?]
12. Says he smokes pot on the regular and has purchased pot from Reggie Thomas. Says she was drug free on this night.
13. Claims she was alone when she observed these events - did not relay the information to the police for a number of days
14. Claims victim was standing on corner of Olive when Tre comes out with guns - victim then runs east - this is a problem - if Tre is coming out of first building then victim would be running right at shooter instead of away from shooter [illogical] if victim starts to run east bound
15. Claims Tre went behind house and up alley - however 29th Street is straight - fence

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Page 3

was not damaged. Running around house and down alley would not be quickest way to reach victim.

16. Says she is not now employed and is not currently on probation or parole and does not have any criminal cases pending

NOTE: Physical and forensic evidence is contrary to her version of events. Negative point is that she ID's Tre and does not back down from her ID. Not believable that she followed shooter up 29th Street. Most people would run the other way.

Trial Two
Transcript
of
Lorianne Morrow

Trans. of Trial 2 L. Morrow

041905 Lorianne Morrow.txt

- 21 A. Yes, sir, he did.
22 Q. How many times?
23 A. I heard about five more shots.
24 Q. Five more shots. In that parking lot five times,
25 that's your testimony?

Division 70, Sixteenth Judicial Circuit

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□

- 1 A. Yes.
2 Q. Okay, so there should have been, according to you--
3 He's shooting close range, right?
4 A. Yes.
5 Q. With that AK-47?
6 A. Yes, he did.
7 Q. In that parking lot?
8 A. Yes, he did.
9 Q. At least five times?
10 A. Yes, sir.
11 Q. Okay. Do you remember talking to the police and
12 telling them that you saw Ke-Ke with a gun?
13 A. Yes.
14 Q. And what kind of gun did Ke-Ke have?
15 A. Ke-Ke had a small gun.
16 Q. A small gun. Did you ever see Ke-Ke fire that gun?
17 A. No. He did not fire.
18 Q. And you never saw Ke-Ke run down the street, right?
19 A. No, sir. It wasn't him that shot him. It was Tre.
20 Q. All right, and did you see, did you ever see--ever
21 see--Mr. Carnes standing in this, the front yard?
22 A. Did I ever see him standing in the front yard?

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041905 Lorianne Morrow.txt

23 Q. Right.

24 A. I don't remember.

25 Q. So that would be no, you didn't see him standing in

Division 70, Sixteenth Judicial Circuit

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1 the front yard?

2 A. That would be no.3 Q. Okay. And, in fact, that front yard has a fence
4 around it, doesn't it?

5 A. Yes, it has a fence around it.

6 Q. You didn't see Mr. Carnes jump that fence, did you?

7 A. Jump the fence? Why would he jump the fence when
8 he could come down the stairs?9 Q. Okay. So you never saw him in the yard of 2846?
10 Is that correct?11 A. 2846?

12 (The witness shook her head.)

13 Q. All right. So, ma'am, I just want to make sure I
14 understand what you're saying. I don't want to be
15 confused here. Okay? You're standing on this
16 corner. Just follow me here. You're standing on
17 this corner. Okay? And you say that Keith comes
18 off this porch to confront Larry with the gun,
19 correct?

20 A. Correct.

21 Q. And you're saying Larry runs toward him while Keith
22 has that gun in his hand, correct?

23 A. Yes.

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IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI,)
)
 Respondent,)
)
 vs.)
)
 KEITH L. CARNES,)
)
 Appellant.)

COPY

Appeal No. WD 67426

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
SIXTEENTH JUDICIAL CIRCUIT
Honorable Gene R. Martin, Senior Judge

STATE OF MISSOURI,)
)
 Plaintiff,)
)
 vs.)
)
 KEITH L. CARNES,)
)
 Defendant.)

Case No. 16CR03006321

TRANSCRIPT ON APPEAL
VOLUME I OF I
Pages 1 thru 572

FOR THE PLAINTIFF:

FOR THE DEFENDANT:

Ms. Dawn M. Parsons and
Mr. Brady X. Twenter
Asst. Prosecuting Attorneys
Floor 7M
Jackson County Courthouse
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Kansas City, Missouri 64106

Mr. Willis L. Toney
Attorney at Law
1100 Main Street
Suite 1600
Kansas City, Missouri 64105

(14)

JIM BOUCK, CCR, CSR, PSSC, CVR-CM-RVR

1 dispatched out there?
2 A Yes.
3 MR. TWENTER: Your Honor, the State
4 would move to admit State's Exhibit Number 4 into
5 evidence.
6 MR. TONEY: No objection.
7 THE COURT: Number 4 is admitted.
8 (Whereupon, State's Exhibit Number 4
9 was received in evidence.)
10 Q (By Mr. Twenter) Now, on both maps at the area of
11 what is marked on State's Exhibit Number 3 as 2831
12 Prospect, there is what I can only describe as a
13 small caricature there?
14 A Yes.
15 Q Can you tell me what that represents?
16 A That was where the victim was lying when I came
17 up to the scene, or approximately where the
18 victim was lying.
19 Q And this area that's marked 2831 on State's
20 Exhibit Number 3, can you tell me what that
21 business is?
22 A That's Fish Town.
23 Q So the area around that would be the parking lot
24 where you found him?
25 A Correct.

1 Q Your job is not to collect any evidence or collect
2 any shell casings, is it?
3 A No, it's not.
4 Q You just identify the witnesses, where any
5 potential evidence may be, and secure the area?
6 A Correct.
7 Q Did you also at some point during the
8 investigation of this crime have an opportunity to
9 measure the distance from the parking lot at 2831
10 Prospect to the corner -- essentially, the
11 intersection of 29th and Olive Street?
12 A I actually measured the distance from the yard at
13 2846 Wabash to 2831 Prospect, using a
14 roll-a-tape.
15 Q And what is a roll-a-tape?
16 A It's a device that measures distances in feet.
17 It's got a little wheel on it.
18 Q Essentially, you just roll it along the ground and
19 it measures out how far you're walking?
20 A Correct.
21 Q Can you tell us what the distance was?
22 A It was approximately 681 feet.
23 Q Now, after you secured the scene and you talked to
24 some witnesses and you measured the distance, did
25 you have any further involvement with this case?

1 Q Now, when you say you secured the crime scene, was
2 it just the Fish Town parking lot that you
3 secured, or did you go anywhere else?
4 A At first, it was just the Fish Town, and then I
5 had some officers do what we call an area
6 canvass. They go out around the neighborhood and
7 start asking questions to see if there are any
8 more witnesses or anything. We were also
9 directed to 2846 Wabash.
10 Q And is that also indicated on State's Exhibit
11 Number 3 with the address of the building?
12 A Yes, it is.
13 Q And why were you directed to 2846 Wabash?
14 A There were some shell casings found in the yard
15 of that address.
16 Q And when you got that information, is that
17 something you would inform the crime scene
18 technicians when they arrived?
19 A I would inform the homicide unit, yes, and then
20 they would, in turn, investigate to make sure
21 that that's a part of the crime scene we're
22 dealing with at that time. From the statements
23 of the witnesses and stuff at that time, they
24 said the shots had come from that general
25 direction.

1 A No, I did not.
2 MR. TWENTER: The State has no further
3 questions of this witness, Your Honor.
4 THE COURT: Mr. Toney, you may
5 cross-examine.
6 MR. TONEY: May it please the Court.
7 CROSS-EXAMINATION
8 BY MR. TONEY:
9 Q Officer Campbell, you were working for east patrol
10 in October of 2003, correct?
11 A Yes, sir.
12 Q And you say you were dispatched to 29th and
13 Prospect. Do you know about what time you were
14 dispatched there?
15 A I believe it was about 8:00 that night.
16 Q Do you have your report on this?
17 A No, sir, I do not.
18 Q But you believe it was -- well, I want to show you
19 a report and ask you if you would look at it to
20 refresh your recollection.
21 A It was 8:50 at night.
22 Q Okay. You were dispatched to that location. Do
23 you know whether it was from a 911 call, or do you
24 know how you were dispatched there?
25 A No. The dispatcher just puts it out and we

1 respond.
 2 Q And do you know where you were at prior to going
 3 to 29th and Prospect?
 4 A I was south, I know that. I remember coming
 5 north on Prospect into the parking lot.
 6 Q About how long did it take you?
 7 A It was a matter of minutes.
 8 Q Do you think you were further south on Prospect
 9 than, say, 39th Street?
 10 A I don't recall.
 11 Q Okay. But you got to 29th and Prospect in a
 12 matter of minutes?
 13 A (Nods head affirmatively.)
 14 Q Is that a "yes"?
 15 A Yes.
 16 Q And when you got there, did you observe anyone
 17 standing up in the parking lot?
 18 A No, I did not.
 19 Q Okay. Did you observe anyone fleeing from the
 20 parking lot?
 21 A No, I did not.
 22 Q Okay. When you first got there, what was the
 23 first thing that you observed?
 24 A I observed the victim lying in the parking lot.
 25 Q I want to show you what's been marked as

1 this pen and I want you to mark with an X
 2 approximately where in that parking lot you saw
 3 the body laying.
 4 A Okay.
 5 Q Put your initials beside it, please.
 6 A (Complies.)
 7 Q Thank you. And when you got there, was the
 8 victim's body faceup or facedown?
 9 A I believe it was faceup.
 10 Q So he would have been laying on his back?
 11 A Yes, sir.
 12 Q And did you move the body when you got there?
 13 A No, sir, I did not.
 14 Q Did you look around to see if you saw any shell
 15 casings?
 16 A I did look around, yes, sir.
 17 Q Okay. Did you observe any shell casings in that
 18 parking lot?
 19 A No, sir, I did not.
 20 Q Did you look around to see if there were any holes
 21 in the asphalt, as if a shot had been made into
 22 the asphalt?
 23 A No. Unless it stood right out, I wouldn't have
 24 noticed whether there had been any holes or
 25 anything.

1 Defendant's Exhibit 101.
 2 MR. TWENTER: Your Honor, the State is
 3 going to object at this point. Counsel has never
 4 seen what he is showing the witness.
 5 THE COURT: Well, he's got to identify
 6 it first.
 7 MR. TWENTER: Okay.
 8 MR. TONEY: I'm going to show it to
 9 you. Give me a second here.
 10 Q (By Mr. Toney) I want to show you Defendant's
 11 Exhibit 101 and ask you if you can identify that
 12 picture.
 13 A Yes, sir, I can.
 14 Q And would you tell the Court what that is a
 15 picture of?
 16 A It's a picture of Fish Town, at 2831 Prospect.
 17 MR. TWENTER: The State has no
 18 objection.
 19 THE COURT: Are you offering it?
 20 MR. TONEY: Yes, Your Honor. I move
 21 for the admission of Defendant's Exhibit 101.
 22 THE COURT: Exhibit 101 is admitted.
 23 (Whereupon, Defendant's Exhibit
 24 Number 101 was received in evidence.)
 25 Q (By Mr. Toney) Officer, I'm going to hand you

1 Q Okay. Did you observe any footprints in the
 2 blood?
 3 A No. I would have noted that. So I would say,
 4 no, I did not.
 5 Q Okay. And you said one of your jobs is to make
 6 sure that there is no contamination of the crime
 7 scene, correct?
 8 A As much as possible, yes, sir.
 9 Q Okay. So you would make sure that no one walked
 10 around and touched anything or picked up anything
 11 before the crime scene people could get there?
 12 A That would be correct, but on this case the
 13 victim was transported by the MAST unit. So they
 14 would have been around the body and touching him
 15 and doing the various things that they do.
 16 Q So was he alive when you got there?
 17 A I didn't check for a pulse or anything. At that
 18 point, I saw that he was shot and I saw blood
 19 coming from him. I called MAST in. Usually, if
 20 there is a good indication that he is deceased,
 21 for example, he's missing a limb or a body part,
 22 something like that, I would wave MAST off at
 23 that point. At this time, it is not my job to
 24 decide whether he is alive or dead. So I go
 25 ahead and let MAST do what they need to do.

1 THE COURT: Well, I see those, but I
 2 haven't seen these photos here.
 3 MR. TONEY: (Complies.)
 4 MR. TWENTER: Your Honor, if we could
 5 have a moment, we're going to use the PowerPoint
 6 with the next witness.
 7 THE COURT: Just have a seat a moment.
 8 THE WITNESS: (Complies.)
 9 THE COURT: Mr. Toney, looking at
 10 Exhibit 102, I had the impression this was a
 11 photo looking west. Is that right?
 12 MR. TONEY: That is correct, Judge.
 13 It is now corrected.
 14 MR. TWENTER: The State has no
 15 objection to the correction, Your Honor.
 16 THE COURT: Would you stand up, sir?
 17 THE WITNESS: (Complies.)
 18 GREGORY VAN RYN,
 19 having first been duly sworn, testified as follows:
 20 DIRECT EXAMINATION
 21 BY MR. TWENTER:
 22 Q Could you state your name for the record, please.
 23 A Gregory Van Ryn.
 24 THE COURT: Spell your last name for
 25 me.

1 A It is called PMs, which we start at 3:30 p.m.
 2 Q And go until?
 3 A Normally, 11:30.
 4 Q Unless you're in the middle of doing something, I
 5 assume?
 6 A Correct.
 7 Q Were you dispatched on the night of October 6th to
 8 the area of 29th and Prospect?
 9 A Yes.
 10 Q And what was the purpose of your dispatch there?
 11 A Originally, it was in regards to a shooting,
 12 which later turned out to be a homicide.
 13 Q And when you arrive on the scene, what are your
 14 duties?
 15 A Again, to document the scene. That's our first
 16 priority, photographing.
 17 Q And after you photograph any potential evidence,
 18 what do you do?
 19 A When we get to the scene, we do a walk-through,
 20 photograph the evidence, and then collect the
 21 evidence.
 22 Q And on this particular night when you arrived, do
 23 you recall what the first thing you noted was?
 24 A At the?
 25 Q At the scene of the Fish Town, let's start out

1 THE WITNESS: V-A-N-capital-R-Y-N.
 2 Q (By Mr. Twenter) Mr. Van Ryn, where are you
 3 employed?
 4 A Kansas City, Missouri, Police Department, crime
 5 scene unit.
 6 Q And what are your duties with the crime scene
 7 unit?
 8 A We respond to crime scenes; collect any related
 9 evidence; document the scene through photographs,
 10 reports, and diagrams.
 11 Q And do you do any investigating and solving of the
 12 crimes like they do on TV?
 13 A That is really a detective's job on our
 14 department.
 15 Q Okay. Your job is to go out and collect the
 16 evidence and take it to the property room or to
 17 the lab, whichever would be appropriate, correct?
 18 A And document the scene, yes.
 19 Q Okay. Were you working for the Kansas City Police
 20 Department in October of 2003?
 21 A Yes, I was.
 22 Q Were you working, specifically, the night of
 23 October 6th?
 24 A Yes, I was.
 25 Q What shift were you working that day?

1 there, at 29th and Prospect.
 2 A Yes. It was in the parking lot, some blood,
 3 clothing, and medical-related trash.
 4 Q When you arrived on the scene, was there still a
 5 body there?
 6 A No.
 7 Q Did you see fire, ambulance, and that sort of
 8 thing?
 9 A I believe they had already left by the time I had
 10 gotten there.
 11 Q All right. After you saw the area at Fish Town,
 12 did you go anywhere else that night?
 13 A Yes, the area of 29th and Wabash.
 14 Q Now, how did you decide these were the areas you
 15 would look at for the collection of evidence, or
 16 photographs and that sort of thing?
 17 A We received that information from detectives.
 18 The detectives were talking to witnesses saying
 19 that they had heard shots from that area.
 20 Q So you're basing your investigation and your
 21 collection at the scene on where the detectives
 22 are telling you to look, correct?
 23 A Correct.
 24 Q All right. I want to start with the parking lot
 25 and we'll go over what you found there. You said

1 there was blood and various medical things and
 2 some clothing?
 3 A Right.
 4 Q Did you find anything else that you considered of
 5 evidentiary value there?
 6 A No. The only items that were collected was a
 7 coat and two gloves.
 8 Q Did you find any shell casings, or spent bullets,
 9 or anything of that nature?
 10 A No.
 11 Q Did you collect all of that evidence that you just
 12 described, with the exception of the blood, I'm
 13 sure?
 14 A Well, the blood was with the clothing. The
 15 clothing was collected, yes.
 16 Q And was there blood anywhere else, other than the
 17 clothing itself?
 18 A There was a small pool of blood in the parking
 19 lot, yes.
 20 Q All right. After you finished collecting that
 21 evidence, I want to move down 29th towards Wabash.
 22 Can you tell me if you found anything in the area
 23 of 29th and Wabash?
 24 A Yes. In that area, a total of 12 shell casings
 25 were collected.

1 residence, and then the detective goes in, and
 2 then I follow.
 3 Q So are you going in at essentially the same time
 4 as the detective?
 5 A No, not at all.
 6 Q All right. So when he's finished with whatever
 7 he's looking for, then you go in and collect any
 8 evidence?
 9 A If they find anything, yes.
 10 Q All right. Can you tell us what building you were
 11 searching that day?
 12 A There were three similar buildings. There was a
 13 center building, which was 2404 East 29th,
 14 Apartment West.
 15 Q The search warrant was for that particular area?
 16 A Correct.
 17 Q And you went into 2404. Did you say what
 18 apartment number it was?
 19 A West, which was on the first floor.
 20 Q Okay.

THE COURT: I'm sorry?

THE WITNESS: West, first floor.

21
 22
 23 Q (By Mr. Twenter) Did you only search and collect
 24 evidence from the apartment on the first floor to
 25 the west that day?

1 Q And do you recall where you collected those from?
 2 A Well, they were from the porch of 2846, from the
 3 yard, and then also along the curb and the street
 4 there, 29th Street.
 5 Q Okay. On that evening, were those the only crime
 6 scenes that you worked?
 7 A Yes.
 8 Q Were you later called back out to the area of 29th
 9 and Prospect to 29th and Olive on this case?
 10 A The following day.
 11 Q And what was the purpose of your going out on that
 12 day?
 13 A The homicide detectives were serving a search
 14 warrant at 2404 East 29th.
 15 Q And when a search warrant is served, what are your
 16 duties?
 17 A Again, I respond to the scene. After the scene
 18 has been cleared by our tactical teams, I respond
 19 to the scene and collect any related evidence
 20 that the detectives request.
 21 Q So when they go and they do the search warrant,
 22 are you going in with the detectives and the tac
 23 team, or do you wait until after they've already
 24 gone in?
 25 A As the tac team goes in, they clear the

1 A No, also 1-East, which was directly east of the
 2 apartment, same building.
 3 Q And so you also collected evidence from the
 4 apartment on the east side of the building,
 5 correct?
 6 A Yes.
 7 Q And this was the middle of the three similar
 8 buildings?
 9 A Yes.
 10 Q I want to start with Apartment 1 on the first
 11 floor to the west.
 12 A Okay.
 13 Q Can you tell me what you collected from that
 14 apartment?
 15 A There were two ID cards, an apparent crack pipe,
 16 and various ammunition, and some court papers.
 17 Q And do you recall exactly what types of ammunition
 18 were found in there?
 19 A I would have to check my reports. There were
 20 various kinds.
 21 Q Would that help refresh your recollection?
 22 A Yes.
 23 Q All right. Go ahead and check.
 24 A Five Luger 9-millimeter; one 380 auto; one PMC
 25 223 Remington; one live shotgun shell,

1 the cartridge casings.
 2 Q I'm going to show you what's been marked, first,
 3 as State's Exhibit Number 58 and ask you if you
 4 recognize that as one of the weapons that was
 5 submitted to you.
 6 A Yes, I do.
 7 Q And what type of weapon is that?
 8 A It is a 7.62 x 39 millimeter Norinco SKS rifle.
 9 Q All right. And we're going to call that State's
 10 Number 58, because that's what it's been
 11 introduced as.
 12 A Okay.
 13 Q I'm also going to show you what's been marked as
 14 State's Exhibit Number 35 and ask you if you
 15 recognize that weapon.
 16 A Yes, I do.
 17 Q Is that also one of the weapons that was submitted
 18 to you for testing in this case?
 19 A Yes, it is.
 20 Q What type of weapon is that?
 21 A It also is a 7.62 x 39 millimeter Norinco, but
 22 the model is a MAK-90.
 23 Q Okay. And we're going to call that State's 32
 24 just for differentiating between the two, if
 25 that's all right with you.

1 A That bullet can become embedded or, if it hits a
 2 harder surface, that bullet could fragment, break
 3 apart.
 4 Q If it hits at an angle, is it possible it could
 5 ricochet as well?
 6 A Yes.
 7 Q And would you expect any of those things to happen
 8 if it was to come in contact with, let's say, a
 9 concrete parking lot?
 10 A Yes, I would expect that.
 11 Q So you couldn't tell us if it would embed in it,
 12 if it would fragment, or if it would ricochet?
 13 A It could do any of those things, depending on the
 14 surface that it came in contact with.
 15 MR. TWENTER: All right. That's all
 16 the State has of this witness, Your Honor.

CROSS-EXAMINATION

18 BY MR. TONEY:
 19 Q Good morning, Ms. May.
 20 A Good morning.
 21 Q You indicated that you tested Number 58, which is
 22 the long black -- well, we'll just describe it for
 23 the record. It's the long black gun, Number 58?
 24 A Yes.
 25 Q All right. And do you recall how many times you

1 A Yes.
 2 THE COURT: Thirty-two, you say?
 3 MR. TWENTER: Thirty-five. I
 4 apologize, Your Honor, 35. I have poor
 5 handwriting.
 6 Q (By Mr. Twenter) Now, you test-fired both of
 7 those weapons, you said?
 8 A Yes, I did.
 9 Q And did you then compare the test-fired casings to
 10 the casings that had been submitted to you from
 11 the crime scene technicians?
 12 A Yes, I did.
 13 Q And can you tell us if the casings from the crime
 14 scene matched either of those weapons?
 15 A Yes, they did.
 16 Q And which one did they match?
 17 A It matched the Norinco MAK-90, Exhibit Number 35.
 18 Q Okay. I have a couple of other questions just
 19 generally about weapons when they are fired. When
 20 you shoot a semiautomatic or an automatic, the
 21 casing comes out and the bullet goes out the front
 22 of the gun, obviously?
 23 A Yes.
 24 Q If that bullet hits something solid, what are the
 25 different things that can happen with it?

1 fired it?
 2 A I can check my notes.
 3 Q Please, do.
 4 A I test-fired that particular firearm three times.
 5 Q And you checked to see which way the shells
 6 ejected, is that correct?
 7 A No, I did not.
 8 Q You didn't?
 9 A No.
 10 Q But you did recover the shell casings to check for
 11 tool marks on them, didn't you?
 12 A Yes.
 13 Q All right. Now, let me show you Number 58 and ask
 14 you, if this were fired, which direction would you
 15 expect the casings to eject?
 16 A As I stated earlier, the cartridge casings could
 17 eject in different directions, depending on the
 18 angle of the firearm, the way the firearm is
 19 actually being held. It could eject from the
 20 sides, it could eject from the rear of the
 21 firearm, and it could eject forward of the
 22 firearm.
 23 Q But if it were fired, say, eight or nine times,
 24 would you expect to be able to find the shell
 25 casings somewhere close to where it was fired?

1 A That's a possibility, but as I said earlier it
 2 all depends on what that cartridge case came in
 3 contact with as it was exiting the firearm.
 4 Q All right. Let me see that gun again.
 5 A (Complies.)
 6 Q The way that this gun is made, is the ejection
 7 port to the right or to the left?
 8 A It could be either, because when that bolt
 9 actually comes back there is an open ejection
 10 port. So it has a possibility of going either
 11 way.
 12 Q Let me show you State's Exhibit Number 35 and ask
 13 you, does that have the same mechanism as Exhibit
 14 Number 58?
 15 A And you mean by "mechanism"?
 16 Q The ejection.
 17 A It is slightly different, yes.
 18 Q Would you tell the Court how this one differs from
 19 the other?
 20 A This ejection port has a closed area. So when
 21 the bolt is actually open, this part of it is
 22 actually shielded or covered.
 23 Q Right. And on that one, you would expect it to
 24 eject which way?
 25 A I would expect it to eject to the right, or to

1 the forward, or to the rearward.
 2 Q But not over it like the other one?
 3 A Again, it's a possibility. It all depends on how
 4 the individual was actually holding the firearm,
 5 what position the firearm was in when it was
 6 being fired, and what that cartridge case came in
 7 contact with.
 8 Q Okay. Now, are you right- or left-handed?
 9 A I am right-handed.
 10 Q Would you hold that gun in the way that a person
 11 who is left-handed would hold it?
 12 A (Complies.)
 13 Q Now, if that gun were shot by a left-handed
 14 person, would you expect the cartridges to go in
 15 the same direction?
 16 A I would expect that.
 17 Q Okay. Thank you. The prosecutor asked you about
 18 if a gun is shot -- a high-velocity gun is shot
 19 from a close range, say, into a parking lot -- he
 20 used concrete. You said you would expect it to
 21 either embed, or ricochet, or fragment, is that
 22 correct?
 23 A Those are possibilities, yes.
 24 Q Assume for a moment it's a softer surface than
 25 concrete, like asphalt. Would you expect the same

1 thing?
 2 A Pretty much the same. It could embed in that
 3 asphalt and it could fragment.
 4 Q Would it be more likely to embed in an asphalt
 5 surface than it would be to embed in a concrete
 6 surface?
 7 A Again, it all depends on how close it was to the
 8 actual asphalt or to the concrete, what the angle
 9 of the bullet was when it was discharged; it
 10 depends on how it actually hit that surface.
 11 Q All right. Now, were you brought to examine
 12 bullet fragments or just the shell casings?
 13 A I believe just shell casings.
 14 Q Okay. Do you recall how many shell casings were
 15 brought to you?
 16 A Thirteen.
 17 Q And you determined that all 13 of them came from
 18 Number 35?
 19 A Yes, sir.
 20 Q And none of them came from Number 58?
 21 A That's correct.
 22 MR. TONEY: All right. No other
 23 questions, Your Honor.
 24 MR. TWENTER: The State has nothing
 25 further of this witness, Your Honor.

THE COURT: That's all. You may step
 down.

(Witness excused.)

MS. PARSONS: Your Honor, the State
 rests.

PLAINTIFF RESTS

THE COURT: Very well.

Yes, sir?

MR. TONEY: I have one witness here at
 this time. I didn't anticipate them being
 finished at 10:30, so I told everyone to come at
 1:30. I've had people trying to call to get
 these people here, but right now I'm looking at
 being able to put on one witness now and coming
 back at 1:30, because that's the time I told
 everybody else to show up, and I'm really having
 trouble trying to reach them right now. That's
 the position that I'm in.

THE COURT: Do you have a motion at
 this time?

MR. TONEY: Yes, but I wanted to do
 that first.

THE COURT: I understand.

MR. TONEY: Okay. Your Honor, at this
 time, the State rests and the defense would make

1 MR. TONEY: We did. We left messages;
2 we left phone numbers, business cards, the whole
3 bit.

4 THE COURT: Right up here to this
5 witness enclosure, please, and remain standing a
6 moment.

7 THE WITNESS: (Complies.)

8 MARVA GRAY,
9 having first been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. TONEY:

12 Q Would you state your name for the record, please.

13 A Marva Gray.

14 THE COURT: I'm sorry, I didn't
15 understand you.

16 THE WITNESS: Marva Gray.

17 THE COURT: Marva Gray?

18 THE WITNESS: (Nods head
19 affirmatively.)

20 Q (By Mr. Toney) Ms. Gray, would you spell your
21 first name and your last name for the record?

22 A M-A-R-V-A, G-R-A-Y.

23 Q And, Ms. Gray, where are you employed?

24 A Fish Town.

25 Q And that's the Fish Town Restaurant at 2831

1 Q Would that be down 29th Street?

2 A And Wabash.

3 Q Toward Wabash?

4 A (Nods head affirmatively.)

5 Q Is that a "yes"?

6 A Uh-huh.

7 Q Okay. I need you to say "yes" or "no," because
8 the court reporter is trying to make a record, and
9 if you say "uh-huh" or "uh-uh," they can't get
10 that. All right?

11 A Okay.

12 Q Now, I want to show you what's been marked as
13 State's Exhibit Number 6 and ask you if you can --
14 if you recognize that area.

15 A Yes.

16 Q And what is that?

17 A The Fish Town building.

18 Q That's where you work at, correct?

19 A Yeah.

20 Q Now, you say you were working as the cashier that
21 evening?

22 A (Nods head affirmatively.)

23 Q Is that a "yes"?

24 A Yes.

25 Q And the cash register, would that be facing to the

1 Prospect?

2 A Yeah.

3 Q And were you employed there on October the 6th of
4 2003?

5 A Yeah.

6 Q And were you working there on that night around
7 9:00 p.m.?

8 A Yes.

9 Q And what is your position at that establishment?

10 A Cashier and cook.

11 Q Okay. And on that night, were you working as a
12 cashier?

13 A Yeah.

14 Q Did you hear any noises that were unusual that
15 night?

16 A Yeah.

17 Q Did you hear what you thought were gunshots?

18 A Yes.

19 Q Would you tell the Court when you first heard the
20 gunshots?

21 A When I first heard them, I started to go to the
22 door but then I went back inside.

23 Q Okay. And where did those gunshots appear to be
24 coming from?

25 A Down the street from Fish Town.

1 north, toward 27th Street?

2 A Yes.

3 Q And there's a window right there, correct?

4 A Yes.

5 Q And then there are two windows that face to the
6 west, toward Prospect, correct?

7 A Yes.

8 Q Now, when you're standing at the cash register,
9 can you see out of the windows that face toward
10 Prospect?

11 A No.

12 Q But you can see out of the windows that face
13 toward 27th Street, correct?

14 A Yes.

15 Q Now, at any time that evening, did you hear
16 gunshots in your parking lot?

17 A It wasn't in the parking lot.

18 Q Okay. And from the cashier's -- well, where
19 you're standing to out in the parking lot, that's
20 about 25 feet, correct?

21 A Yes.

22 Q Okay. And if someone would have been standing in
23 that parking lot shooting, you would have heard
24 it, correct?

25 A Yes.

1 Q But you did not hear that, is that correct?
 2 A Yes.
 3 Q Okay. That night, did you discover that a person
 4 had been shot and was laying in the parking lot?
 5 A Yes.
 6 Q Okay. Tell the Court how you came to know that
 7 that person had been shot and was laying in the
 8 parking lot.
 9 A I went to tell this lady her food was ready and
 10 the lady had already came in, and then when the
 11 lady came in -- I went back around the counter
 12 and then when the lady came and got her food, she
 13 got ready to walk out and she grabbed her chest
 14 and was like, "There's a man in the parking lot."
 15 Q Okay. So he wasn't there before she came in?
 16 A Uh-uh.
 17 Q And not there when you went out to get her?
 18 A No.
 19 Q And about how much time was that, a couple of
 20 seconds, a couple of minutes?
 21 A A couple of minutes.
 22 Q Okay. And then when you went back out, that's
 23 when he was laying out there?
 24 A Yeah.
 25 Q Okay. And in that period of time, you hadn't

1 A Yes.
 2 Q And you are sure beyond any doubt that there was
 3 no gunshots fired in that parking lot that
 4 evening, is that correct?
 5 A Yes.
 6 MR. TONEY: I don't have any other
 7 questions, Your Honor.
 8 THE COURT: You may examine.
 9 MS. PARSONS: Thank you.
 10 CROSS-EXAMINATION
 11 BY MS. PARSONS:
 12 Q Ms. Gray, you were working at the Fish Town and
 13 you said you were the cashier and also the cook,
 14 is that correct?
 15 A Yes.
 16 Q And so as a part of your duties, you take orders
 17 from customers that walk in the store, right?
 18 A Yes.
 19 Q And customers that go through the drive-through?
 20 A We don't have a drive-through.
 21 Q Okay. And so you're taking orders and then you're
 22 also maybe sometimes at the same time cooking the
 23 food?
 24 A Yes.
 25 Q Doing a couple of things at once?

1 heard any gunshots in your parking lot, right?
 2 A No.
 3 Q Okay. Now, I want to show you what's been marked
 4 as State's Exhibit Number 8 and ask you if you
 5 recognize that.
 6 A (Nods head affirmatively.)
 7 Q Is that a "yes"?
 8 A Yes.
 9 Q Okay. And I know this is traumatic and painful,
 10 but is that the location where the body was when
 11 you went out there?
 12 A Yes.
 13 Q Okay. And that body is like right outside of the
 14 door of the Fish Town, correct?
 15 A Yes.
 16 Q I don't want to just keep going over this -- well,
 17 here, I'll remove that picture because I know you
 18 don't want to look at it.
 19 That was a traumatic evening for you,
 20 wasn't it?
 21 A I had just lost my son, that's why.
 22 Q Okay. And then you go out and there is a dead
 23 body right in front of the place where you're
 24 working at. So you would remember that night,
 25 correct?

1 A Yes.
 2 Q And so on this night, there was nothing unusual;
 3 you were taking orders and you were cooking the
 4 food?
 5 A Yes.
 6 Q And then you had heard gunshots, right?
 7 A Yes.
 8 Q And you actually heard two sets of gunshots?
 9 A Yes.
 10 Q The first set, you told Mr. Toney and you also
 11 told the police that you heard it towards the west
 12 down 29th, is that true?
 13 A Yes, yes.
 14 Q And then you had said earlier that there was a
 15 delay of about eight minutes and then there was a
 16 second set?
 17 A Yes.
 18 MR. TONEY: I'm going to object, Your
 19 Honor. She didn't say anything like that. I
 20 object.
 21 MS. PARSONS: It's cross-examination.
 22 THE COURT: It's overruled.
 23 Q (By Ms. Parsons) So about eight minutes elapsed
 24 and then you hear the second set?
 25 A Yes.

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1 Q You hear the first set, and there are people in
2 the store -- or a person in the store?
3 A They was in their car.
4 Q In their car. And you're working, is that true?
5 A Yes.
6 Q So you hear the shots and there are things going
7 on; you're working, right?
8 A Yes.
9 Q Then the second set of shots, correct?
10 A Yes.
11 Q And then that's when you saw the lady who had her
12 hand to her chest?
13 A Yes.
14 THE COURT: Had what? I'm sorry.
15 MS. PARSONS: Her hand on her chest.
16 THE COURT: All right.
17 Q (By Ms. Parsons) I guess she was gasping, like
18 she was shocked?
19 A Yes.
20 Q And then you went to her, correct?
21 A Yes.
22 Q You wanted to find out what was going on with her?
23 A Yes.
24 Q All of this is kind of happening at once, correct?
25 A Yes.

1 A Yes.
2 Q And then you stayed and gave information to the
3 police, right?
4 A Yes.
5 Q And then you went downtown and gave a statement?
6 A Yes.
7 Q And you didn't see anybody shooting, right?
8 A Right.
9 Q You're just doing your job?
10 A Right.
11 Q And the only other involvement you had in this
12 case is when the lawyers started talking to you
13 and then you came here?
14 A Yes.
15 MS. PARSONS: I don't have any further
16 questions. Thank you.
17 THE COURT: Any redirect?
18 MR. TONEY: Yes.
19 REDIRECT EXAMINATION
20 BY MR. TONEY:
21 Q Ms. Gray, I want to just make something clear.
22 The customer that had come in to order their food
23 and was parked outside, when you first went out to
24 their car or when they first came in, there was no
25 dead body laying in the parking lot, was there?

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1 Q She's okay, right, the woman?
2 A Yes.
3 Q And then that's when you look outside and you see
4 the body?
5 A Yes.
6 Q The other customer that you had been waiting on,
7 did he or she drive through the parking lot?
8 A No. They were sitting there waiting on their
9 order.
10 Q Was there a car in the parking lot?
11 A Yes. It was facing toward Fish Town.
12 Q Did that car drive away after the shooting?
13 A Yes.
14 Q But before anybody got there, like the police or
15 fire or anything like that?
16 A Yes.
17 Q Did you call 911?
18 A Yes.
19 Q And then the police came?
20 A Yes.
21 Q Did the fire department come, like a fire engine?
22 A No.
23 Q Did an ambulance come?
24 A Yes.
25 Q Did they drive into the parking lot?

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1 A No.
2 Q Okay. And then you prepared whatever for them and
3 then you came back to see what they were doing or
4 to bring it out to the car to them?
5 A I was going to tell her her food was ready, but
6 she had already came in.
7 Q But she had come in. And when she came in, that's
8 when she told you that there was --
9 A No. There was another gunshot and I handed her
10 her food, and she turned around to walk out and
11 she said there was somebody laying in the parking
12 lot.
13 Q Okay. But that gunshot didn't come from that
14 parking lot?
15 A No.
16 Q All right. So to the best of your knowledge, you
17 were right there at Fish Town that night and
18 nobody was standing in that parking lot shooting?
19 A No.
20 MS. PARSONS: Objection, Your Honor.
21 She doesn't know that. She couldn't see it. I
22 object to the form of the question.
23 THE COURT: Overruled.
24 Q (By Mr. Toney) You can answer. Do you want me to
25 do the question again?

1 A There wasn't nobody in the parking lot shooting.
 2 MR. TONEY: All right. Thank you.
 3 RECROSS-EXAMINATION
 4 BY MS. PARSONS:
 5 Q Ma'am, you couldn't see even if there was, could
 6 you?
 7 A No, but I could hear the sounds and it came from
 8 by the church.
 9 Q Fair enough, but you couldn't see if someone shot?
 10 A No.
 11 MS. PARSONS: All right. Thank you.
 12 REDIRECT EXAMINATION
 13 BY MR. TONEY:
 14 Q Ms. Gray, you've heard gunshots before, is that
 15 correct?
 16 A (Nods head affirmatively.)
 17 Q Is that a "yes"?
 18 A Yes.
 19 Q Okay. And if a gun is right ten feet from the
 20 door of your business, you would be able to know
 21 that, wouldn't you?
 22 A Yes.
 23 Q But that didn't happen, did it?
 24 A No.
 25 MR. TONEY: Thank you.

1 Q Now, I want to refer you to State's Exhibit
 2 Number 3. In Exhibit Number 3, you see at 28th
 3 and Prospect the outline of a building, is that
 4 correct?
 5 A That's 2844 Prospect.
 6 Q And that would be that AME church that's there on
 7 the corner?
 8 A Correct.
 9 Q Okay. And on this exhibit, you see where there
 10 are some initials, "WL"? Do you see those
 11 initials?
 12 A Yes.
 13 Q All right. Now, did I ask you to measure from
 14 that approximate spot where the church was over to
 15 where you located the body?
 16 A Correct.
 17 Q Okay. And did you and other crime scene
 18 technicians make that measurement today?
 19 A Yes.
 20 Q Would you please tell the Court what that
 21 measurement was?
 22 A One hundred and eighty-nine feet.
 23 Q And did you all measure it more than once to make
 24 sure that that was accurate?
 25 A Yes.

1 THE COURT: Anything further?
 2 MS. PARSONS: No, sir.
 3 THE COURT: That's all. You may step
 4 down. Thank you, and watch your step.
 5 (Witness excused.)
 6 MR. TONEY: Your Honor, I would next
 7 call crime scene technician Van Ryn.
 8 GREGORY VAN RYN,
 9 having first been duly sworn, testified as follows:
 10 FURTHER DIRECT EXAMINATION
 11 BY MR. TONEY:
 12 Q Good afternoon, Officer.
 13 A Hello.
 14 Q I had contacted you this morning about going back
 15 out to the crime scene at the Fish Town at 2831
 16 Prospect, correct?
 17 A Correct.
 18 Q And as fate would have it, we met up there today
 19 at about 12:30, is that correct?
 20 A Correct.
 21 Q And at my request, did you do a measurement of the
 22 distance from where the body was located to where
 23 the end of the church was, the church that's
 24 located across the street? Is that correct?
 25 A Correct.

1 Q And 189 feet -- three feet equals one yard -- that
 2 would be 60 yards, wouldn't it?
 3 A I'm not that good at math.
 4 Q Okay. Well, if I told you six times three is 18,
 5 that would be 180?
 6 A Okay.
 7 Q So that is 60 yards? Are you a football fan?
 8 A Not really.
 9 Q Okay. Do you know how long a football field is?
 10 A I believe it's 100 yards.
 11 Q Okay. So 50 yards would be to at least halfway,
 12 and then another 10 yards past that, correct?
 13 A Correct.
 14 Q Okay. Now, on the night that you went out when
 15 the shooting first occurred, that was October the
 16 6th, correct?
 17 A Correct.
 18 Q Okay. And I want to show you what's been marked
 19 as State's Exhibit Number 6, and you've probably
 20 already looked at that picture but I want to ask
 21 you -- it was dark that evening, wasn't it, when
 22 you went out there?
 23 A It was nighttime, yes.
 24 Q And I see that the picture is illuminated. Do you
 25 all use flashes on your cameras to take those

1 Did you serve the subpoena personally?
 2 MR. TONEY: Yes, I did, Your Honor, I
 3 served her personally with the subpoena.
 4 THE COURT: Very well. I'm issuing the
 5 attachment for the witness.
 6 MR. TONEY: Okay.
 7 THE COURT: And as soon as we get this
 8 processed, I understand that both counsel for the
 9 State and counsel for the defendant have
 10 requested that the Court go to the scene for a
 11 personal view of the area?
 12 MR. TONEY: That is correct, Your
 13 Honor.
 14 MS. PARSONS: Yes, sir.
 15 THE COURT: We'll make arrangements to
 16 do that today, and then I would propose that we
 17 continue the matter until, say, 2:00 tomorrow.
 18 MS. PARSONS: Okay.
 19 THE COURT: We'll see what the
 20 situation is then, whether she's been brought in
 21 on the writ or not, and if she has, then we can
 22 proceed, assuming that I am through with the
 23 other matter that I have scheduled for tomorrow
 24 morning. At least, we can just see what happens
 25 and proceed if we can.

1 Q Good morning, Ms. Bell.
 2 A Good morning.
 3 Q Would you state your name for the record.
 4 A Vernetta Marie Bell.
 5 Q And, Ms. Bell, what is your date of birth?
 6 A September 22nd, 1958.
 7 Q Where do you live?
 8 A 3224 Quincy.
 9 Q Is that in Kansas City, Missouri?
 10 A Yes, it is.
 11 Q And how long have you lived in Kansas City?
 12 A Oh, all my life.
 13 Q I want to call your attention to October the 6th
 14 of 2003. Were you living in Kansas City at that
 15 time?
 16 A Yes.
 17 Q Were you in the area of 29th Street between
 18 Prospect and Olive on that day?
 19 A Yes, I was.
 20 Q All right. How frequently did you go to that
 21 area?
 22 A Off and on, I'll say -- what, like maybe once or
 23 twice every week.
 24 Q Okay. And let's just cut through some of this.
 25 What was your purpose for going to that area?

1 MR. TONEY: Okay.
 2 THE COURT: So at this time, we'll
 3 adjourn on this case until tomorrow at 2:00 p.m.
 4 MS. PARSONS: Okay.
 5 MR. TONEY: Thank you.
 6 (Whereupon, the Court adjourned until
 7 10:00 a.m., Monday, November 14th, 2005, at which
 8 time the following proceedings were had:)
 9 THE COURT: All right. Counsel, this
 10 is the case of State versus Keith Carnes, and it
 11 was continued until this date for further
 12 evidence, namely, Vernetta Bell. She apparently
 13 had to be brought in through body attachment and
 14 I understand she's here now.
 15 Are you Vernetta Bell?
 16 THE WITNESS: Uh-huh.
 17 THE COURT: Will you please stand a
 18 moment and be sworn.
 19 THE WITNESS: (Complies.)
 20 MR. TONEY: May I proceed, Your Honor?
 21 THE COURT: Yes, sir.
 22 VERNETTA BELL,
 23 having first been duly sworn, testified as follows:
 24 DIRECT EXAMINATION
 25 BY MR. TONEY:

1 A Well, most of the time I went down there -- I had
 2 family down there, plus, I did the dealings that
 3 I did down there.
 4 Q Okay. Did you go down there to buy drugs at some
 5 time?
 6 A Yes.
 7 Q Okay. Did you go down there to sell drugs at some
 8 time?
 9 A Yes.
 10 Q Okay. During the time that you were frequenting
 11 that area in October of 2003, did you ever have an
 12 occasion to meet a person by the name of Larry
 13 White?
 14 A Yes, I did.
 15 Q Okay. Will you tell the Court how you knew Larry
 16 White?
 17 A Well, I knew Larry some years ago because he
 18 stayed -- he went with a niece of mine and he
 19 stayed in the same complex over on The Boulevard,
 20 named Lena.
 21 Q So he dated a niece of yours?
 22 A Uh-huh.
 23 Q Is that a "yes"?
 24 A Yes.
 25 Q So you've known Larry White for a while?

1 A Yeah.
 2 Q Did you know the defendant in this case, Keith
 3 Carnes?
 4 A Yeah, but not like I knew Larry.
 5 Q And on the street, Mr. Carnes had another name
 6 besides Keith. What was his name?
 7 A Tre.
 8 Q And how long had you known Tre?
 9 A A few months.
 10 Q All right. And did you have a relationship with
 11 Tre?
 12 A Not really.
 13 Q Okay. Did you have a relationship with Larry
 14 White?
 15 A Yes.
 16 Q Would you tell the Court what your relationship
 17 with Larry White was?
 18 A Well, we were like -- well, Larry called me
 19 Auntie. You know, I was more closer to Larry
 20 than any of them around there. When Larry showed
 21 up in the hood, I stayed with Larry all day long,
 22 you know, kind of watched his back or whatever.
 23 Q Okay. So you and Larry had not only a friendship,
 24 but a relationship that dated some period of time,
 25 is that correct?

1 A Yeah.
 2 Q All right. Now, on the evening of October the
 3 6th, were you present when the shooting started?
 4 A Yes.
 5 Q Okay. Would you tell the Court where you were
 6 located when the shooting first started?
 7 A I had just walked away from him.
 8 Q From who?
 9 A From Larry.
 10 Q Okay. And Larry was standing on 29th Street
 11 between Wabash and Prospect, is that correct?
 12 A Yes.
 13 Q And you had just walked away from Larry?
 14 A Yeah.
 15 Q And Larry was standing there on the corner. Was
 16 Larry standing on the corner dealing drugs?
 17 A Yeah.
 18 Q Okay. And when you saw Larry, he was talking to
 19 some people in a car, is that correct?
 20 A No. It was two guys I had never seen. They were
 21 standing on the sidewalk talking to him.
 22 Q Okay. And did you see Wendy Lockett standing
 23 there?
 24 A No.
 25 Q Okay. Did you see Lorianne Morrow?

1 A No.
 2 Q Okay. So Larry was standing there and the
 3 shooting started, and then what did you do?
 4 A I was headed down the hill towards Wabash. By
 5 the time I had crossed over to Wabash, that's
 6 when the shooting started, you know, and me and
 7 this guy, Shorty -- he caught himself trying to
 8 protect me, and we were just trying to run, you
 9 know, to keep from getting hit.
 10 Q Okay. Now, were you running west on 29th Street
 11 toward Olive?
 12 A Yeah.
 13 Q And running toward the apartment buildings?
 14 A Yeah.
 15 Q All right. Now, when you got by the apartment
 16 buildings, the shooting was behind you, is that
 17 correct?
 18 A Right.
 19 Q And who did you see when you got to the apartment
 20 buildings?
 21 A Tre. He hollered, "Auntie, come up here," you
 22 know, because that's what most of them in the
 23 neighborhood called me.
 24 Q Where was Tre standing?
 25 A He was standing in between the apartment

1 buildings.
 2 MR. TONEY: Okay. Bear with me for
 3 just a moment, please.
 4 Q (By Mr. Toney) I want to show you what's been
 5 marked as Defendant's Exhibit Number 106, and I
 6 would like for you to stand up a minute.
 7 A (Complies.)
 8 Q Now, these are the apartment buildings on 29th
 9 Street, is that correct?
 10 A Uh-huh.
 11 Q Is that a "yes"?
 12 A Yes.
 13 Q All right. Now, there is building number one,
 14 number two, and number three is on the corner?
 15 A Uh-huh.
 16 Q Where was Mr. Carnes when you saw him?
 17 A Over here.
 18 Q So he was in building number two, the middle
 19 building?
 20 A Yeah.
 21 Q And was he standing in the doorway or on the
 22 porch?
 23 A No, he was in the doorway.
 24 Q All right. So he was standing in the doorway of
 25 the middle apartment building?

1 A Uh-huh.
 2 Q You can have a seat. Thank you.
 3 A (Complies.)
 4 Q And do you recall if there was anybody else
 5 standing there with him?
 6 A No, not right off.
 7 Q Okay. And when you saw him, would you tell the
 8 Court what he asked you to do?
 9 A He said, "Auntie, get up here out of the way."
 10 Q And did you go up that way?
 11 A Yeah, I got up there.
 12 Q Okay. And did he have a gun with him?
 13 A Uh-huh.
 14 Q Was he shooting at anybody?
 15 A No. He was up there peeking like everybody else
 16 was.
 17 Q And what did you do after the shooting stopped?
 18 A Sat down in the hallway for a few minutes to try
 19 to get myself together, because certain ones had
 20 came down there and told me who it was.
 21 THE COURT: Who came down?
 22 THE WITNESS: Certain people had came
 23 down and let me know, had told me who it was,
 24 that it was the one that I had been with. So I
 25 sat down there in the hallway for a few minutes.

1 A Uh-huh.
 2 Q Is that a "no"?
 3 A No, nobody has ever asked me nothing.
 4 Q Okay. Now, have you ever been convicted of a
 5 felony?
 6 A Have I ever been?
 7 Q Convicted of a felony.
 8 A Well, yeah, possession.
 9 Q And that was in 1999?
 10 A Uh-huh.
 11 Q Is that a "yes"?
 12 A Yes.
 13 Q Okay. And you served six months in the county
 14 jail for that?
 15 A Uh-huh.
 16 Q Is that a "yes"?
 17 A Yes.
 18 Q All right. Do you know of any other times that
 19 you've been convicted of a felony?
 20 A No.
 21 Q Just that one time?
 22 A Yeah.
 23 Q Now, Ms. Bell, how did you come to the attention
 24 of my office to find you as a witness, do you
 25 remember that?

1 Q (By Mr. Toney) And until that time, you didn't
 2 know that Larry White had gotten shot?
 3 A I didn't know it was him, no.
 4 Q And where was Mr. Carnes at during that time?
 5 A He went back in the apartment.
 6 Q Okay. After that, did you leave the apartment
 7 complex? I shouldn't call it a complex. Did you
 8 leave the apartment building?
 9 A Yeah.
 10 Q All right. Did you go back toward the area of
 11 29th and Prospect?
 12 A Yeah, I went back up through there, and I was
 13 walking around and stuff trying to see if anybody
 14 could tell me something or what had happened, and
 15 the police picked me up and took me to jail.
 16 Q Okay. So the police stopped you on 29th and
 17 Prospect that night?
 18 A Uh-huh.
 19 Q Did they start to question you?
 20 A No. They just ran me and I had other warrants,
 21 so they took me to jail.
 22 Q And that was that night?
 23 A Yeah.
 24 Q Okay. And did any of the police officers ever ask
 25 you if you had seen the shooting or anything?

1 A Tennille, his girlfriend.
 2 Q Had contacted you, and then Tennille Benton
 3 contacted my office and told us that you might
 4 know something about this?
 5 A Right.
 6 Q All right. Has anybody in my office made you any
 7 promises to get you to testify?
 8 A No.
 9 Q Have we paid you any money?
 10 A No.
 11 Q Have we done anything to benefit you in any way to
 12 get you to testify?
 13 A You should have asked me that question. No.
 14 Q I should have asked you that question before you
 15 got locked up. All right. But other than to
 16 issue you a subpoena to testify, we have not
 17 promised or given you anything to come forward, is
 18 that correct?
 19 A No.
 20 Q And is what you're telling the Court today the
 21 truth?
 22 A Yes, it is.
 23 Q All right. And you were present that evening and
 24 you did not see Mr. Carnes with a gun, is that
 25 correct?

1 A No.
 2 Q Okay. And, in fact, when the shooting started,
 3 you ran toward Mr. Carnes and he shielded you, is
 4 that correct?
 5 A Right. When the shooting was going on, he was
 6 standing in between the buildings ducking
 7 himself, trying to see what was going on.
 8 MR. TONEY: All right. I don't have
 9 any other questions of this witness, Your Honor.
 10 THE COURT: You may examine.
 11 MS. PARSONS: Thank you.
 12 CROSS-EXAMINATION
 13 BY MS. PARSONS:
 14 Q Ms. Bell, you have a conviction for possession of
 15 a controlled substance, right?
 16 A Uh-huh.
 17 Q You had sold drugs in the past?
 18 A Uh-huh.
 19 Q Is that a "yes"?
 20 A Yes.
 21 Q And you also helped arrange serves for people, is
 22 that true?
 23 A Yes.
 24 Q And you would help arrange serves for Larry White?
 25 A Yes.

1 Q And that means you would facilitate a drug deal;
 2 you would have customers come to him?
 3 A Yeah.
 4 Q You're kind of like the middleman?
 5 A Yeah.
 6 Q And you would also facilitate serves for Tre as
 7 well?
 8 A Yeah.
 9 Q So you too are a drug dealer?
 10 A Well, if that's what you want to call it.
 11 Q Okay. And on October 6th of 2003, you got to the
 12 area of 29th and Olive, Wabash, Prospect sometime
 13 in the afternoon?
 14 A Uh-huh.
 15 Q You need to say "yes" or "no."
 16 A Yes.
 17 Q Because he's trying to pick it up.
 18 A Oh, yes. Okay.
 19 Q And when you got there, Larry White was there?
 20 A No, he wasn't there when I got there.
 21 Q He showed up sometime later?
 22 A Yeah. I was already down there when he showed
 23 up.
 24 Q And when you were there, there were people hanging
 25 around the street, right?

1 A Yeah.
 2 Q In the afternoon?
 3 A Yes.
 4 Q And into the evening?
 5 A Yes.
 6 Q And then Larry showed up, is that right?
 7 A Yes.
 8 Q And he started conducting business?
 9 A Yes.
 10 Q And you were helping him?
 11 A Yes.
 12 Q And there were people driving up?
 13 A Yes.
 14 Q Walking up?
 15 A Yes.
 16 Q And people in the apartments walking up there?
 17 A Well, from the apartments, no. The people that
 18 were coming were coming from the other direction
 19 or whatever. There wasn't really nobody from the
 20 apartments coming up there by Larry.
 21 Q But there were people going to the apartments?
 22 A Yeah.
 23 Q And that area at that time, in September and
 24 October of 2003, was a hot area for drugs?
 25 A Yes.

1 Q And you frequented that area, right?
 2 A Yes.
 3 Q During that time?
 4 A Uh-huh.
 5 Q And during that time around the shooting, the
 6 defendant, Tre, was also in that area?
 7 A Yes.
 8 Q And he actually sold drugs from that area too?
 9 A Yes.
 10 Q He sold from the apartment buildings?
 11 A Right.
 12 Q And sometimes you would buy drugs from him, right?
 13 A Yes.
 14 Q And sometimes from Larry?
 15 A Well, Larry wasn't down there like that. Larry
 16 hadn't been in that neighborhood. That was
 17 Larry's first time being down there since I had
 18 been down there, in a minute, since I had last
 19 seen him in the old complex.
 20 Q Okay.
 21 A So Larry was not frequently down there. Larry
 22 wasn't from down there.
 23 Q Okay. But Tre had been there awhile?
 24 A Yes.
 25 Q And you had said "in a minute," and you don't mean

1 60 seconds?
 2 A Right.
 3 Q Okay. Some people would just hang out there,
 4 right?
 5 A Yes.
 6 Q Some people would buy their crack and smoke it
 7 right there?
 8 A Yes.
 9 Q And on October 6th of 2003 in the afternoon and
 10 into the early evening hours, it was no different;
 11 people would buy drugs, smoke drugs?
 12 A Yeah, you're right.
 13 Q People coming in and out, right?
 14 A Yes.
 15 Q And you had been helping Larry in the hopes that
 16 he would either give you drugs or money?
 17 A Yes.
 18 Q You really weren't sure, maybe a little bit of
 19 both?
 20 A Uh-huh.
 21 Q And on that afternoon and into the evening, you
 22 saw the defendant, correct, Tre?
 23 A Yeah.
 24 Q And he was in the apartment?
 25 A What do you mean?

1 A Yes.
 2 Q So he's there and he's wearing his patch. He had
 3 been there for a few weeks, couple weeks, three
 4 weeks?
 5 A Who?
 6 Q Tre.
 7 A No, he had been there longer than a few weeks.
 8 Q Okay. So you had seen him there many times
 9 selling drugs?
 10 A Yes.
 11 Q So, now, we move to October 6th of 2003. After
 12 the shooting, you said that you were arrested,
 13 right?
 14 A Yes.
 15 Q And you were arrested on a warrant?
 16 A Yes.
 17 Q And you were arrested up at 29th and Prospect
 18 around midnight?
 19 A Yes.
 20 Q And they took you to the city jail?
 21 A Yes.
 22 Q On that warrant, for that particular crime?
 23 A Yes.
 24 Q And then from that time that you were arrested,
 25 October 6th of 2003, into the evening hours of

1 Q Tre was in the apartment, in this middle apartment
 2 here, on that afternoon/evening?
 3 A Yeah, but I didn't see Tre until that night when
 4 all of the stuff happened.
 5 Q Okay. And when you saw Tre, he had his patch on?
 6 A Right.
 7 Q And he was wearing a black hoodie?
 8 A Not as I know of.
 9 Q And no other people out there had a patch, right?
 10 A No.
 11 Q No other drug dealers that you knew of had a
 12 patch?
 13 A No.
 14 Q No other drug dealers that frequented that
 15 particular area at that time had a patch?
 16 A No.
 17 Q Okay. And you know Tre well enough for him to
 18 call you Auntie, right?
 19 A Yes.
 20 Q And that's what Larry called you?
 21 A Yes.
 22 Q And the people that know you call you Auntie?
 23 A Yes.
 24 Q That you kind of have a familiar relationship
 25 with?

1 October 7th of 2003, you didn't talk to anybody in
 2 law enforcement about this case?
 3 A No.
 4 Q You didn't come forward, actually, until August of
 5 2005, to the motion for new trial, right?
 6 A Yes.
 7 Q So you came forward after the defendant had been
 8 convicted the first time around?
 9 A Yes.
 10 Q So you come to court that day. I believe it was
 11 August --
 12 A No. Excuse me. No, I didn't come forward then.
 13 They had located me before the last trial, but
 14 somehow, the way their communication has been
 15 with me, they did not get me here where I could
 16 have testified for that trial.
 17 Q Okay. But you came forward after he was
 18 convicted, right?
 19 A Yes.
 20 Q Now, your brother has been in the jail with Tre,
 21 hasn't he?
 22 A Yes.
 23 Q Your brother, Terry Young?
 24 A Uh-huh.
 25 Q Is that a "yes"?

1 A Yes.
 2 Q They are in the same module?
 3 A Yes.
 4 Q Their cells are, I think, next door to each other,
 5 aren't they?
 6 A I don't know all of that.
 7 Q And actually Tre, the defendant, contacted you on
 8 a three-way call through his girlfriend?
 9 A Yes.
 10 Q And, actually, you came to Tre's attention through
 11 your brother, Terry Young?
 12 A Yes.
 13 Q And that's how this all started --
 14 A Uh-huh.
 15 Q (Continuing) -- and how you came to light, and
 16 then they ultimately brought you to Mr. Toney?
 17 A Yes.
 18 Q Mr. Toney didn't do anything?
 19 A No.
 20 Q Right. He had asked you if he had threatened you
 21 or paid you, and that's not the case here?
 22 A No.
 23 Q Okay. So your brother is in jail with Tre; you
 24 get on a three-way with Tre, Tennille, and you;
 25 and you come to court in August of 2005? Do you

1 remember that?
 2 A Yes.
 3 Q And Mr. Toney asked you to go over to the police
 4 department to tell the police what you knew?
 5 A Yes.
 6 Q And you went over there that day?
 7 A Yes.
 8 Q And two detectives brought you into a room?
 9 A Yes.
 10 Q And then you left?
 11 A Right. I was supposed to have had another
 12 appointment.
 13 Q And then you didn't tell them anything on that
 14 day, right?
 15 A Yes, I did. I gave them a statement.
 16 Q You did not give them a signed statement, you
 17 left?
 18 A No, I gave them a statement.
 19 Q You left that day?
 20 A I gave them a statement.
 21 Q You left that day?
 22 A They were supposed to do a video after the
 23 written statement and they set me up an
 24 appointment. I went back for the appointment.
 25 They told me that they would set me up another

1 appointment because they were too busy with other
 2 murder cases.
 3 Q That's true.
 4 A Okay.
 5 Q And then you didn't keep your third appointment?
 6 A They never set me one.
 7 Q And then, ultimately, you never gave a statement
 8 to the police?
 9 A Do what?
 10 Q You never gave a statement to the police?
 11 A I give a statement to them the first day I went
 12 over there, a written statement. They wrote down
 13 what I said.
 14 Q And they had a little chalkboard and a whiteboard,
 15 and showed you what was going on, right, and then
 16 you left?
 17 A No, they did not do the chalkboard and all of
 18 that.
 19 Q Okay. But the point is, Ms. Bell, the way you
 20 came into contact in this whole case was through
 21 the defendant, through your brother, and they
 22 contacted you and you came forward after the
 23 conviction?
 24 A Right.

MS. PARSONS: I have nothing further.

1 THE COURT: Any redirect?
 2 MR. TONEY: Yes.
 3 REDIRECT EXAMINATION
 4 BY MR. TONEY:
 5 Q Ms. Bell, Terry Young is your brother, correct?
 6 A Yes.
 7 Q Okay. Did Terry Young tell you to lie for
 8 Mr. Carnes?
 9 A No, nobody told me to lie or anything. See, I
 10 started not to get involved because I did have a
 11 warrant. See what I'm saying?
 12 Q Okay.
 13 A And, like, when I found out that they had gave
 14 this man life -- were going to give him life for
 15 something I knew he didn't do, I felt like this
 16 is something I'm supposed to do. I know this man
 17 was standing by me when this happened, see what
 18 I'm saying, and I know I was with Larry and this
 19 man was nowhere around us. So, you know, I just
 20 couldn't go and I'm knowing that this man is
 21 right here while the shooting is going on and he
 22 couldn't have did this.
 23 MR. TONEY: I don't have any other
 24 questions.
 25 MS. PARSONS: Nothing further, Your